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Fourth Constitutional  
Convention of Ohio, 1912

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# INITIATIVE AND REFERENDUM

Published for the Convention  
HERBERT S. BIGELOW, President  
C. B. GALBREATH, Secretary



# INITIATIVE AND REFERENDUM

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Published for the Constitutional Convention  
of 1912

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COMPILED BY  
C. B. GALBREATH, SECRETARY



COLUMBUS, OHIO  
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CONSTITUTIONAL CONVENTION,

COLUMBUS, OHIO, February 1, 1912.

The compiler prepared for publication pamphlets on the Initiative and Referendum in 1908, 1909 and 1911. Since that time much has been written on the subject, and developments in different sections of the United States indicate clearly that interest in direct legislation is becoming more general and pronounced.

The supply of the pamphlets previously published is practically exhausted. This contribution has been compiled to meet the current and prospective demand for material on the subject.

Acknowledgment is due to the library of the Ohio State University for assistance in bringing the bibliography down to date.

C. B. GALBREATH,  
*Secretary.*

## INITIATIVE AND REFERENDUM.

### TERMS DEFINED.

The *Referendum* may be defined in general as the referring of legislation to the people for final rejection or acceptance; the *Initiative* as the giving to the people the right of proposing legislation to be acted upon.

The *Referendum*, as it is now generally advocated, requires that no law save a strictly defined class of urgent measures for the public peace, health, and safety, which usually must have a two-thirds or three-fourths majority to pass, shall go into effect without waiting a fixed time, say ninety days. If, during this time, a part of the voters, say ten per cent., sign a petition for the *Referendum* on that law, it would not go into effect till the next regular election when the people would vote for it, and if a majority voted no, it would not be a law.

The *Initiative* gives the people the power to originate laws. If a certain percentage of the voters, say ten per cent., sign a petition for a law and file it with the proper official, it must come before the legislature, and perhaps be referred to the people.

Sometimes the law requires that legislation be referred to the people, whether they petition it or not. This is called the *compulsory Referendum*. Where the *Referendum* is taken only where a certain number petition for it, it called the *optional Referendum*.

The *Referendum* and the *Initiative* provide for *direct legislation*; that is, legislation directly by the people.

—Adapted from *The Encyclopedia of Social Reform*.

In amendments by a number of states the *Initiative* and *Referendum* are regarded as distinct powers reserved by the people. The two might therefore be defined in a general way as follows:

The *Initiative* is the power reserved by the people to originate and enact laws directly, usually without the mediation of the legislature.

The *Referendum* is the power reserved by the people to veto directly a law passed by the legislature.



## PROGRESS OF THE INITIATIVE AND REFERENDUM IN AMERICA.

- 1897** Iowa applied Referendum to all franchise grants.
- 1897** Nebraska made Initiative and Referendum optional in cities.
- 1898** South Dakota adopted Initiative and Referendum amendment.
- 1900** Utah adopted amendment for which legislature has never passed enabling act.
- 1901** Illinois passed public policy law providing for advisory Referendum.
- 1902** Oregon by constitutional amendment secured an effective form of the Initiative and Referendum.
- 1903** Los Angeles, California, applied Initiative and Referendum to municipal affairs.
- 1905** Nevada by constitutional amendment adopted the Referendum.
- 1905** Grand Rapids, Michigan, applied Initiative and Referendum to municipal affairs.
- 1906** Montana adopted Initiative and Referendum amendment.
- 1906** Delaware by popular vote instructed legislature to provide for the Initiative and Referendum.
- 1907** (1) Oklahoma placed Initiative and Referendum in the constitution to be submitted to the people.  
(2) Maine legislature voted to submit an Initiative and Referendum amendment.  
(3) Missouri legislature voted to submit an Initiative and Referendum amendment.  
(4) North Dakota legislature voted to submit an Initiative and Referendum amendment.  
(5) Delaware legislature placed the Initiative and Referendum in the charter of Wilmington.
- 1908** (1) Missouri adopted Initiative and Referendum by vote of 177,615 to 147,290.  
(2) Maine adopted Initiative and Referendum by vote of 53,785 to 24,543.  
(3) The legislature of North Dakota failed to submit Initiative and Referendum to the people.
- 1909** (1) Arkansas legislature voted to submit Initiative and Referendum amendment.  
(2) Colorado legislature voted to submit Initiative and Referendum amendment.

- 1910 (1) Arkansas adopted Initiative and Referendum amendment by a vote of 91,367 to 39,111.
- (2) Colorado adopted Initiative and Referendum amendment by a vote of 89,141 to 28,698.
- (3) Arizona placed Initiative and Referendum in constitution to be submitted to popular vote.
- (4) New Mexico placed Initiative and Referendum in constitution to be retained.
- 1911 to Apr. 1 (1) People of Arizona voted approval of constitution containing provisions for Initiative, Referendum and Recall.
- (2) People of New Mexico voted approval of constitution containing provision for Referendum.
- (3) People of California adopted Initiative, Referendum and Recall amendments, Oct. 10, 1911.
- 1912 (1) Initiative and Referendum amendment will be submitted to the people of Idaho, Nov., 1912.
- (2) Initiative and Referendum amendment will be submitted to the people of Indiana.
- (3) Initiative and Referendum amendment will be submitted to the people of Nebraska, Nov., 1912.
- (4) Initiative and Referendum amendment will be submitted to the people of Nevada, Nov., 1912.
- (5) Initiative and Referendum amendment will be submitted to the people of North Dakota, probably in 1914.
- (6) Initiative and Referendum amendment will be submitted to the people of Washington, Nov., 1912.
- (7) Initiative and Referendum amendment will be submitted to the people of Wyoming, Nov., 1912.
- (8) In Wisconsin a similar amendment has passed one legislature and awaits the approval of the next before going to the people.

## OHIO.

### Proposed Amendments to the Constitution.

The Initiative and Referendum resolution, introduced into the Ohio senate January 3, 1908, by Hon. W. L. Atwell, passed that body and went to the house, where it was referred to the judiciary committee. It was reported back in amended form. After extended discussion and further amendment it passed the house March 19, yeas 100, nays 16, in the following form:

*Be it resolved by the General Assembly of the State of Ohio:*

SECTION 1. That a proposition be submitted to the electors of this state at the next election for the members of the general assembly to

amend Section 1 of Article II of the constitution of the State of Ohio so as to read as follows:

## ARTICLE II.

SEC. 1. The legislative power of this state shall be vested in a general assembly, which shall consist of a senate and house of representatives; but the people reserve the right to enact or reject at the polls any law or part of a law which has been passed by the general assembly, or any proposed law which, having been introduced by a member of the general assembly, has failed to pass or having passed has been vetoed by the governor, or has not passed the general assembly without amendment. No proposed law shall contain more than one subject, which shall be clearly and fully expressed in its title; and no law shall be revised or amended unless the new act contain the entire act revised or the section or sections amended; and the section, or sections, so amended, shall be repealed; and these provisions shall be mandatory.

No law or part of a law passed by the general assembly (except such laws as are necessary for the immediate preservation of the public peace, health or safety and which are termed emergency measures and which shall require a two-thirds vote of each house, or laws necessary to suppress insurrection or repel invasion or laws carrying appropriations for the current expenses of the state institutions and state officers) shall become operative in less than ninety days after the adjournment of the session of the general assembly at which the act was passed.

If, before the expiration of ninety days after the adjournment of any session of the general assembly, petitions are filed with the secretary of state, signed by five per cent. of the electors of the state, requesting a popular vote upon any act or part of an act of such session of the general assembly, the same shall be submitted for the approval or rejection of the electors of the state at the first election held on the first Tuesday after the first Monday in November, in the even numbered years, which occurs thirty days or more after the filing of said petitions, and all acts or parts of an act upon which a popular vote may be required shall remain in abeyance until such vote is taken.

If, not less than forty-five days before any election occurring on the first Tuesday after the first Monday in November, in the even numbered years, petitions are filed with the secretary of state, signed by ten per cent. of the electors of the state, requesting a popular vote upon any measure introduced by any member of the general assembly at the last preceding session of the general assembly, which has failed to pass, or, having passed has been vetoed by the governor or has not been passed by the general assembly without amendment, the same shall be submitted for approval or rejection by the electors of the state at such election.

Any act passed by the general assembly and submitted to a direct

vote shall take effect and become a law unless a majority of the votes cast at such election are cast against such act; and any measure rejected by the general assembly, or passed by the general assembly and vetoed by the governor, or not passed by the general assembly without amendment, and which is submitted to a direct vote, shall take effect and become a law if a majority of the votes cast at such election are cast for such measure.

The secretary of state shall within 60 days canvass the vote and the result thereof and shall transmit the same to the governor; the governor shall, within 10 days after transmission to him, issue a proclamation of the result of the vote, and the act of the electors in the vote on rejecting or enacting laws shall take effect at the expiration of ten days from the date of such proclamation unless said proposed law shall expressly provide that it shall take effect at a later date.

Nothing herein shall in any way be held to abrogate or affect the right or power of the general assembly to repeal or amend any act or law however enacted; or of the courts to pass upon the constitutionality thereof.

The whole number of votes cast for governor at the state election last preceding the filing of petitions shall be the basis on which to determine the required number of petitioners.

Measures submitted to the electors shall be indicated by title and printed beginning at the top of the first column of the ballot and shall bear no party emblem or endorsement.

Or the general assembly may provide that each measure submitted to a vote of the electors under this article shall be upon a separate ballot without any political party designation. Each such ballot shall be given each voter in the same manner and at same time as the regular ballot is given. Each voter shall return to the election officers such ballot or ballots in same manner and at same time as regular ballots are returned. The ballots provided for under this article shall be deposited in a ballot box which is a different box than that containing the regular ballots.

Petitions shall be signed in each one of at least a majority of the congressional districts of the state by not less than the required percentage of electors as herein provided, and all petitions shall contain the full text of the act or bill to be submitted, and each signer of said petitions shall also sign his address and occupation.

The required percentage in each district shall be the respective percentages above named of the electors of such district.

No measure adopted by a vote of the electors shall be subject to the governor's veto.

The amendment shall be self-executing, but the general assembly shall enact laws to determine more precisely the manner of procedure in voting for, or rejecting laws.

SEC. 2. At such election there shall be placed on the ballots the

words: "Constitutional amendment, Article II, Section 1—For Direct Legislation—Yes"; "Constitutional amendment, Article II, Section 1—For Direct Legislation—No." And electors shall vote by marking their ballots with a cross mark in the blank space to the left of and before the vote desired to be given and not otherwise.

SEC. 3. That a proposition be submitted to the electors of this state at the next election for members of the general assembly to amend Section 18, Article II of the constitution of the state of Ohio so as to read as follows:

SEC. 18. The style of the laws of this state shall be: "Be it enacted by the people of the state of Ohio."

SEC. 4. At such election there shall be placed on the ballots the words: "Constitutional amendment, Article II, Section 18—For Change of Style of Enacting Clause of Laws—Yes"; "Constitutional amendment, Article II, Section 18—For Change of Style of Enacting Clause for Laws—No." And the electors shall vote thereon by marking their ballots with a cross mark in the blank space to the left of and before the vote desired to be given and not otherwise.

The senate refused to concur in the house amendments. The resolution then went to a conference committee, which failed to agree.

## JOINT RESOLUTION.\*

Introduced in General Assembly January, 1909.

The following joint resolution was introduced in the Ohio senate by Hon. Isaac E. Huffman, and in the house by Hon. Cornell Schreiber:

*Be it resolved by the General Assembly of the State of Ohio:*

That a proposition be submitted to the electors of this state at the next election for members of the general assembly, to amend section 1 of Article II of the constitution of the state of Ohio so as to read as follows:

### ARTICLE II.

SECTION 1. The legislative power of this state shall be vested in a general assembly, which shall consist of a senate and a house of representatives; but the electors reserve the right to enact or reject at the polls any law or part of a law which has been passed by the general assembly, or any proposed law which having been introduced by a member of the general assembly, has failed to pass, or, having passed, has been vetoed

---

\*This resolution was materially amended in the house, which it passed March 3rd by a vote of 98 to 17. It then went to the senate, where it was further amended and brought to a vote March 9th, but failed to receive the requisite majority for submission to the people.



by the governor, or has not been passed by the general assembly without amendment.

No law or part of a law passed by the general assembly (except such laws as are necessary for the immediate preservation of the public peace, health or safety and which are termed emergency measures, and which shall require a two-thirds vote of each house), shall become operative in less than ninety days after the adjournment of the session of the general assembly at which the act was passed.

If, before the expiration of ninety days after the adjournment of any session of the general assembly, petitions are filed with the secretary of state, signed by five per cent. of the electors of the state, requesting a popular vote upon any act or part of an act of such session of such general assembly, the same shall be submitted for the approval or rejection of the electors of the state at the first election held on the first Tuesday after the first Monday in November thereafter which occurs thirty days or more after the filing of said petitions, and all acts or parts of an act upon which a popular vote is required shall remain in abeyance until such vote is taken.

If not less than 45 days before any election occurring on the first Tuesday after the first Monday in November, petitions are filed with the secretary of state, signed by ten per cent. of the electors of the state, requesting a popular vote upon any measure introduced by any member of the general assembly at the last preceding session of the general assembly, which has failed to pass, or, having passed, has been vetoed by the governor or has not been passed by the general assembly without amendment the same shall be submitted for the approval or rejection of the electors of the state at such election.

Any act passed by the general assembly and submitted to a direct vote shall take effect and become a law unless a majority of the votes cast thereon are cast against such act and any measure rejected by the general assembly, or passed by the general assembly and vetoed by the governor, or not passed by the general assembly without amendments, and which is submitted to a direct vote, shall take effect and become a law if a majority of the votes cast thereon are cast for such measures.

The secretary of state shall within sixty days after such election canvass the vote and the result thereof and shall transmit the same to the governor; the governor shall, within ten days after the transmission of the result to him by the secretary of state, issue a proclamation of the result of the vote, and the act of the electors in the vote on rejecting or enacting laws shall take effect at the expiration of ten days from date of such proclamation unless said proposed law shall expressly provide that it shall take effect at a later date.

The whole number of votes cast for the office of governor at the

state election last preceding the filing of petitions shall be the basis on which to determine the required number of petitioners.

Measures submitted to the electors shall be indicated by title and printed upon the ballot in such manner as may be required by law.

No measures adopted by vote of the electors shall be subject to the governor's veto.

This amendment shall be self-executing, but the general assembly shall have the power to enact laws to determine more precisely the procedure in voting for or rejecting laws.

SECTION 2. At such elections there shall be placed on the ballots the words: "Constitutional Amendment, Article II, Section 1, for Initiative and Referendum—YES." "Constitutional Amendment, Article II, Section 1, For Initiative and Referendum—NO." And the electors shall vote thereon by marking their ballots in such manner as may be provided by law.

SECTION 3. That the general assembly agrees to an amendment to be submitted to the electors of this state at the next election for the members of the general assembly to amend Article XVI of the constitution of the state of Ohio by adding thereto an additional section, which shall be section 4 and which shall read as follows:

#### ARTICLE XVI.

SECTION 4. Whenever petitions are filed with the secretary of state, signed by fifteen per cent. of the electors of the state, and requesting a popular vote upon a proposed constitutional amendment, which proposed constitutional amendment shall be printed in full upon such petitions, such proposed constitutional amendment shall be submitted to the electors for their approval or rejection, at the first election held on the first Tuesday after the first Monday in November thereafter, which occurs seven months or more after the filing of such petitions; and such proposed amendments shall become a part of the constitution if a majority of the votes cast thereon are cast for such amendment.

SECTION 5. At such election there shall be placed on the ballots the words: "Constitutional Amendment, Article XVI, Section 4, Amendment of Constitution by Initiative and Referendum—YES." "Constitutional Amendment, Article XVI, Section 4, for Amendment of Constitution by Initiative and Referendum—NO." And the electors shall vote thereon by marking their ballots in such manner as may be provided by law.

## INITIATIVE AND REFERENDUM IN OHIO MUNICIPALITIES.

(House Bill No. 48.)

BY HON. ROBERT CROSSER,

AN ACT.

To provide for the initiative and referendum in municipal corporations.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. Ordinances providing for and declaratory of any and all powers of government which the general assembly has delegated or may hereafter delegate to any municipal corporation, in accordance with the provisions of the constitution, and also ordinances repealing other ordinances, may be proposed to the council of any municipal corporation for passage by initiative petition signed as hereafter provided by thirty per cent. of the qualified voters of such municipality, which petition is to be filed with the clerk of such municipal corporation within 120 days after the date of the first signature thereon. Any proposed ordinances so petitioned for, shall be submitted by said clerk to the council for its action thereon at its next meeting. If within sixty days after its first submission to the council, said ordinance is not passed by the council without change or amendment, it shall be the duty of the clerk within ten days after the expiration of said sixty days to certify said proposed ordinance to the officers having control of the elections in such municipal corporation, who shall cause the question of the passage of such ordinance to be submitted to the vote of the electors of such municipal corporation at the next regular election; provided, however, that same shall not become operative until it shall have been submitted and receive the majority of the vote cast at such election.

The highest total vote cast for the office of mayor at the regular municipal election immediately preceding the filing of such petition shall be the basis upon which the number of signatures of qualified electors of such municipal corporation required upon the aforesaid petitions, shall be determined. If a majority of those voting on said ordinances vote in favor of same, it shall become a valid ordinance of said municipal corporation from the date of the determination of the vote, and shall not be subject to the veto of the mayor; and said ordinance shall be recorded and published in the same manner as other ordinances of said municipality.

SECTION 2. Any ordinance, resolution or other measure of a municipal corporation, granting a franchise creating a right, involving the expenditure of money or exercising any other power delegated to such municipal corporation by the general assembly, shall be submitted to

the qualified electors for their approval or rejection in the manner herein provided, if within thirty days after the passage or adoption of such ordinance, resolution or measure by the council, there be filed with the clerk of such municipal corporation, a petition or petitions signed by fifteen per cent. of the qualified electors of such municipal corporation as determined by the highest number of votes cast for the office of mayor of such municipal election immediately preceding, ordering the submission of such ordinance, resolution or measure to the vote of the electors of such municipal corporation. Within ten days after the filing of such petition or petitions with the clerk as aforesaid, such clerk shall certify such ordinance, resolution or other measure to the officer or officers having control of elections in such municipal corporation who shall submit such ordinance, resolution or other measure to the vote of the electors of such municipal corporation at the next general election.

No resolution, ordinance, or measure of any municipal corporation, creating a right, involving the expenditure of money, granting a franchise, conferring, extending or renewing a right to use of the streets, or regulating the use of the streets for water, gas, electricity, telephone, telegraph, power or street railways, or other public or quasi-public utility shall become effective in less than sixty days after its passage, during which time, if petitions signed by fifteen per cent. of the qualified electors of such municipal corporation as determined by the highest number of votes cast for the office of mayor of such municipal corporation at the municipal election immediately preceding, are filed with the clerk of such municipal corporation petitioning for the submission of any such ordinance or resolution to a vote of the people, such clerk shall certify the fact of the filing of such petition to the officers having control of the elections in such municipal corporation, who shall cause said resolution or ordinance to be voted on at the next regular election; Provided, however, that at least thirty days' notice of the election upon such ordinance, resolution or measure must be given, when such election is to be held.

SECTION 3. All other acts of city council not included among those specified in section 2 of this act, shall also remain inoperative for sixty days after passage and may be submitted to popular vote in the manner herein provided, except that any act, not included within those specified in section 2 of this act, as remaining inoperative for sixty days, and which is declared to be an emergency measure, and receiving a three-fourths majority in council of such municipal corporation may go into effect immediately and remain in effect until repealed by city council or by direct vote of the people as herein provided.

SECTION 4. The form of petition for the referendum to the people of any act of a city council shall be substantially as follows:

## NOTICE.

It is a misdemeanor for any one to sign any initiative or referendum petition with any name other than his own or knowingly to sign his name more than once for the same measure, or to sign such petition when he is not a qualified elector.

To ....., clerk of .....

We, the undersigned, electors of ..... of ..... respectively order that council ordinance No. ...., entitled ..... shall be referred to the electors for their approval or rejection, at the regular election to be held on the ..... day of ..... A. D. 19...., and each for himself says: I know the contents of and have personally signed this petition and my residence is correctly stated opposite my name. Name ....., Residence ....., Date of signature.

Here place as many lines as convenient for the placing of signatures, places of residence and date of signature, under the respective headings indicated.

The form of petition for any ordinance proposed by the initiative shall be substantially the same as for referendum petitions, except that in place of number and title of the ordinance passed by council, shall be inserted, the text of the proposed ordinance.

Petitions may be filed in numbered sections accompanied by the affidavit of the person or persons circulating same, which affidavit shall be in substantially the following form:

State of Ohio, County of ..... ss.:

I, ..... being first duly sworn, say: The signatures upon the petitions herewith attached were made in my presence; I believe that each signer is a qualified elector and has stated his name and address correctly.

Signature and address of affiant .....

Subscribed and sworn to before me by ..... this ..... day of ....., A. D. ....

Signature and title of officer before whom oath is made together with such officer's seal, if the use of same be otherwise required by law.

The forms herein given are not mandatory, and if substantially followed in my petition it shall be sufficient, regardless of clerical and technical errors.

SECTION 5. Ordinances, resolutions or other measures referred by petition shall be designated, "Referendum ordered by petition of the electors," ordinances or other measures proposed by initiative petition shall be designated by the heading, "Proposed by initiative petition."

The manner of voting upon ordinances, resolutions or other measures submitted to the electors, and upon ordinances, resolutions or other measures proposed by initiative and submitted to the electors, shall be

the same as is now or may hereafter be required and provided by law; no ordinance or other measure shall be adopted unless it shall receive an affirmative majority of the total number of the lawful and effective votes cast at such election and entitled to be counted under the provisions of this act separate ballots shall be provided and so printed as to permit a vote for or against each ordinance or measure submitted in accordance with the order of the petition or petitions demanding such submission and for or against each ordinance or measure proposed by initiative petition and all ordinances and measures passed by council or ordinances and measures proposed by initiative petition, so submitted, shall be indicated on the ballots by the title of such ordinance or measure passed by the council, or the title of the proposed ordinance or measure given in the petitions asking for the popular vote upon the same.

Every person who is a qualified elector of the state of Ohio, may lawfully sign any of the petitions mentioned in this act, for an initiative or referendum vote, in the municipality where he is entitled to vote. Any person signing any name other than his own to any petition, or knowingly signing his name more than once upon a petition or petitions for a referendum election upon the same ordinance or measure or upon a petition or petitions proposing the same ordinance or measure, at one election, or who is not at the time of signing his name a qualified elector of the city, or any officer or any person willfully violating any provision of this statute, shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail or workhouse not exceeding six months, or both.

SECTION 6. If any section or portion of this act shall for any reason be declared to be unconstitutional, such invalidity shall not affect any other section or portion hereof.

All laws or parts of laws in conflict herewith are hereby repealed.

S. J. VINING,

*Speaker of the House of Representatives.*

HUGH L. NICHOLS,

*President of the Senate.*

Passed May 31, 1911.

Approved June 14, 1911.

JUDSON HARMON, *Governor.*

## CONSTITUTIONAL PROVISIONS.

The state constitutions of Arizona, Arkansas, California, Colorado, Maine, Missouri, Montana, Oklahoma, Oregon, South Dakota, and Utah contain provisions for the Initiative and Referendum. The constitutions of Nevada and New Mexico provide for the Referendum but not the Initiative. Preparatory steps have been taken for the submission of

Initiative and Referendum amendments to the constitutions of Idaho, Nebraska, North Dakota, Washington, Wisconsin and Wyoming.

## ARIZONA.

### Article IV.

#### INITIATIVE AND REFERENDUM.

SECTION 1. (1) The legislative authority of the state shall be vested in a legislature, consisting of a senate and a house of representatives, but the people reserve the power to propose laws and amendments to the constitution and to enact or reject such laws and amendments at the polls, independently of the legislature; and they also reserve, for use at their own option, the power to approve or reject at the polls any act, or item, section, or part of any act, of the legislature.

(2) The first of these reserved powers is the Initiative. Under this power ten per centum of the qualified electors shall have the right to propose any measure, and fifteen per centum shall have the right to propose any amendment to the constitution.

(3) The second of these reserved powers is the Referendum. Under this power the legislature, or five per centum of the qualified electors, may order the submission to the people at the polls of any measure, or item, section, or part of any measure, enacted by the legislature, except laws immediately necessary for the preservation of the public peace, health or safety, or for the support and maintenance of the departments of the state government and state institutions; but to allow opportunity for Referendum petitions, no act passed by the legislature shall be operative for ninety days after the close of the session of the legislature enacting such measure, except such as require earlier operation to preserve the public peace, health or safety, or to provide appropriations for the support and maintenance of the departments of state and of state institutions: Provided, that no such emergency measure shall be considered passed by the legislature unless it shall state in a private section why it is necessary that it shall become immediately operative, and shall be approved by the affirmative votes of two-thirds of the members elected to each house of the legislature, taken by roll call of ayes and nays, and also approved by the governor; and should such measure be vetoed by the governor, it shall not become a law unless it shall be approved by the votes of three-fourths of the members elected to each house of the legislature, taken by roll call of ayes and nays.

(4) All petitions submitted under the power of the Initiative shall be known as Initiative petitions, and shall be filed with the secretary of state not less than four months preceding the date of the election at which the measures so proposed are to be voted upon. All petitions submitted under the power of the Referendum shall be known as Referen-

dum petitions, and shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislature which shall have passed the measure to which the Referendum is applied. The filing of a Referendum petition against any item, section, or part of any measure shall not prevent the remainder of such measure from becoming operative.

(5) Any measure or amendment to the constitution proposed under the Initiative, and any measure to which the Referendum is applied, shall be referred to a vote of the qualified electors, and shall become law when approved by a majority of the votes cast thereon and upon proclamation of the governor, and not otherwise.

(6) The veto power of the governor, shall not extend to Initiative or Referendum measures approved by a majority of the qualified electors.

(7) The whole number of votes cast for all candidates for governor at the general election last preceding the filing of any Initiative or Referendum petition on a state or county measure shall be the basis on which the number of qualified electors required to signed such petition shall be computed.

(8) The powers of the Initiative and Referendum are hereby further reserved to the qualified electors of every incorporated city, town, and county as to all local, city, town, or county matters on which such incorporated cities, towns and counties are or shall be empowered by general laws to legislate. Such incorporated cities, towns, and counties may prescribe the manner of exercising said powers within the restrictions of general laws. Under the power of the Initiative fifteen per centum of the qualified electors may propose measures on such local, city, town or county matters, and ten per centum of the electors may propose the Referendum on legislation enacted within and by such city, town, or county. Until provided by general law, said cities and towns may prescribe the basis on which said percentages shall be computed.

(9) Every Initiative or Referendum petition shall be addressed to the secretary of state in the case of petitions for or on state measures, and to the clerk of the board of supervisors, city clerk, or corresponding officer in the case of petitions for or on county, city or town measures; and shall contain the declaration of each petitioner, for himself, that he is a qualified elector of the state (and in the case of petitions for or on city, town, or county measures, of the city, town or county affected), his postoffice address, the street and number, if any, of his residence, and the date on which he signed such petition. Each sheet containing petitioners' signatures shall be attached to a full and correct copy of the title and text of the measure so proposed to be initiated or referred to the people, and every sheet of every such petition containing signatures shall be verified by the affidavit of the person who circulated said sheet or petition, setting forth that each of the names on said sheet was signed in the presence of the affiant and that in the belief of the affiant



each signer was a qualified elector of the state, or in the case of the city, town, or county measure, of the city, town, or county affected by the measure so proposed to be initiated or referred to the people.

(10) When any Initiative or Referendum petition or any measure referred to the people by the legislature shall be filed, in accordance with this section, with the secretary of state, he shall cause to be printed on the official ballot at the next regular general election the title and number of said measure, together with the words "Yes" and "No" in such manner that the electors may express at the polls their approval or disapproval of the measure.

(11) The text of all measures to be submitted shall be published as proposed amendments to the constitution are published, and in submitting such measures and proposed amendments the secretary of state and all other officers shall be guided by the general law until legislation shall be especially provided therefor

(12) If two or more conflicting measures or amendments to the constitution shall be approved by the people at the same election, the measure or amendment receiving the greatest number of affirmative votes shall prevail in all particulars as to which there is conflict.

(13) It shall be the duty of the secretary of state, in the presence of the governor and the chief justice of the supreme court, to canvass the votes for and against each measure or proposed amendment to the constitution within thirty days after the election, and upon the completion of the canvass the governor shall forthwith issue a proclamation, giving the whole number of votes cast for and against each measure or proposed amendment, and declaring such measures or amendments as are approved by a majority of those voting thereon to be law.

(14) This section shall not be construed to deprive the legislature of the right to enact any measure.

(15) This section of the constitution shall be, in all respects, self-executing.

SEC. 2. The legislature shall provide a penalty for any willful violation of the provisions of the preceding section.

## ARKANSAS.

### Article V.

SECTION 1. The legislative powers of this state shall be vested in a general assembly, which shall consist of the senate and house of representatives, but the people of each municipality, each county and of the state reserve to themselves power to propose laws and amendments to the constitution and to enact or reject the same at the polls independent of the legislative assembly, and also reserve power at their own option to approve or reject at the polls any act of the legislative assembly. The first power reserved by the people is the Initiative, and not more than

eight per cent. of the legal voters shall be required to propose any measure by such petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon.

The second power is a Referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety) either by the petition signed by five per cent. of the legal voters or by the legislative assembly as other bills are enacted. Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislative assembly which passed the bill on which the Referendum is demanded. The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people of the state shall be had at the biennial regular general elections, except when the legislative assembly shall order a special election. Any measure referred to the people shall take effect and become a law when it is approved by a majority of the votes cast thereon and not otherwise. The style of all bills shall be, "Be it enacted by the people of the state of Arkansas." This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure. The whole number of votes cast for the office of governor at the regular election last preceding the filing of any petition for the Initiative or for the Referendum shall be the basis on which the number of legal votes necessary to sign such petition shall be counted. Petitions and orders for the Initiative and for the Referendum, shall be filed with the secretary of state, and in submitting the same to the people he and all other officers shall be guided by the general laws and the acts submitting this amendment until legislation shall be specially provided therefor.

### CALIFORNIA.

The legislature of the State of California, at its regular session commencing on the 2nd day of January, 1911, two-thirds of all the members elected to each of the two houses of said legislature voting in favor thereof, hereby propose that section 1 of article 4 of the constitution of the State of California, be amended so as to read as follows:

Section 1. The legislative power of this state shall be vested in a senate and assembly which shall be designated "The legislature of the State of California," but the people reserve to themselves the power to propose laws and amendments to the constitution, and to adopt or reject the same, at the polls independent of the legislature, and also reserve the power, at their own option, to so adopt or reject any act, or section or part of any act, passed by the legislature.

The enacting clause of every law shall be "The people of the State of California do enact as follows:"

The first power reserved to the people shall be known as the Initiative. Upon the presentation to the secretary of state of a petition certified as herein provided to have been signed by qualified electors, equal in number to eight per cent. of all the votes cast for all candidates for governor at the last preceding general election, at which a governor was elected, proposing a law or amendment to the constitution, set forth in full in said petition, the secretary of state shall submit the said proposed law or amendment to the constitution to the electors at the next succeeding general election occurring subsequent to ninety days after the presentation aforesaid of said petition, or at any special election called by the governor in his discretion prior to such general election. All such Initiative petitions shall have printed across the top thereof in twelve-point black-face type the following: "Initiative measure to be submitted directly to the electors."

Upon the presentation to the secretary of state, at any time not less than ten days before the commencement of any regular session of the legislature, of a petition certified as herein provided to have been signed by qualified electors of the state equal in number to five per cent. of all the votes cast for all candidates for governor at the last preceding general election, at which a governor was elected, proposing a law set forth in full in said petition, the secretary of state shall transmit the same to the legislature as soon as it convenes and organizes. The law proposed by such petition shall be either enacted or rejected without change or amendment by the legislature, within forty days from the time it is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to Referendum, as hereinafter provided. If any law so petitioned for be rejected, or if no action is taken upon it by the legislature within said forty days, the secretary of state shall submit it to the people for approval or rejection at the next ensuing general election. The legislature may reject any measure so proposed by Initiative petition and propose a different one on the same subject by a yea and nay vote upon separate roll call, and in such event both measures shall be submitted by the secretary of state to the electors for approval or rejection at the next ensuing general election or at a prior special election called by the governor, in his discretion, for such purpose. All said Initiative petitions last above described shall have printed in twelve point black-face type the following: "Initiative measure to be presented to the legislature."

The second power reserved to the people shall be known as the Referendum. No act passed by the legislature shall go into effect until ninety days after final adjournment of the session of the legislature which passed such act, except acts calling elections, acts providing for tax levies or appropriations for the usual current expenses of the state, and

urgency measures necessary for the immediate preservation of the public peace, health and safety, passed by a two-thirds vote of all the members elected to each house. Whenever it is deemed necessary for the immediate preservation of the public peace, health or safety that a law shall go into immediate effect, a statement of the facts, constituting such necessity shall be set forth in one section of the act, which section shall be passed only on a yea and nay vote, upon a separate roll call thereon; provided, however, that no measure creating or abolishing any office or changing the salary, term or duties of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be construed to be an urgency measure. Any law so passed by the legislature and declared to be an urgency measure shall go into immediate effect.

Upon the presentation to the secretary of state within ninety days after the final adjournment of the legislature of a petition certified as herein provided, to have been signed by qualified electors equal in number to five per cent. of all the votes cast for all candidates for governor at the last preceding general election at which a governor was elected, asking that any act or section or part of any act of the legislature, be submitted to the electors for their approval or rejection, the secretary of state shall submit to the electors for their approval or rejection, such act, or section or part of such act, at the next succeeding general election occurring at any time subsequent to thirty days after the filing of said petition or at any special election which may be called by the governor, in his discretion, prior to such regular election, and no such act or section or part of such act shall go into effect until and unless approved by a majority of the qualified electors voting thereon; but if a referendum petition is filed against any section or part of any act the remainder of such act shall not be delayed from going into effect.

Any act, law or amendment to the constitution submitted to the people by either the Initiative or Referendum petition and approved by a majority of the votes cast thereon, at any election, shall take effect five days after the date of the official declaration of the vote by the secretary of state. No act, law or amendment to the constitution, initiated or adopted by the people, shall be subject to the veto power of the governor, and no act, law or amendment to the constitution, adopted by the people at the polls under the Initiative provisions of this section, shall be amended or repealed except by a vote of the electors, unless otherwise provided in said Initiative measure; but acts and laws adopted by the people under the Referendum provisions of this section may be amended by the legislature at any subsequent session thereof. If any provision or provisions of two or more measures, approved by the electors at the same election, conflict, the provision or provisions of the measure receiving the highest affirmative vote shall prevail. Until otherwise provided by law, all measures submitted to a vote of the electors, under the pro-

visions of this section, shall be printed, and together with arguments for and against each such measure by the proponents and opponents thereof, shall be mailed to each elector in the same manner as now provided by law as to amendments to the constitution, proposed by the legislature; and the persons to prepare and present such arguments shall, until otherwise provided by law, be selected by the presiding officer of the senate.

If for any reason any Initiative or Referendum measure, proposed by petition as herein provided, be not submitted at the election specified in this section, such failure shall not prevent its submission at a succeeding general election, and not law or amendment to the constitution, proposed by the legislature, shall be submitted at any election unless at the same election there shall be submitted all measures proposed by petition of the electors, if any be so proposed, as herein provided.

Any initiative or referendum petition may be presented in sections, but each section shall contain a full and correct copy of the title and text of the proposed measure. Each signer shall add to his signature his place of residence, giving the street and number if such exists. His election precinct shall also appear on the paper after his name. The number of signatures attached to each section shall be at the pleasure of the persons soliciting signatures to the same. Any qualified elector of the state shall be competent to solicit said signatures within the county or city and county of which he is an elector. Each section of the petition shall bear the name of the county or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures for the same, stating his own qualifications and that all the signatures to the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is a genuine signature of the person whose name it purports to be, and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer oaths. Such petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing the same are qualified electors. Unless and until it be otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified electors.

Each section of the petition shall be filed with the clerk or registrar of voters of the county or city and county in which it was circulated, but all said sections circulated in any county or city and county shall be filed at the same time. Within twenty days after the filing of such petition in his office the said clerk, or registrar of voters, shall determine from the records of registration what number of qualified electors have

signed the same, and if necessary the board of supervisors shall allow said clerk or registrar additional assistance for the purpose of examining such petition and provide for their compensation. The said clerk or registrar, upon the completion of such examination, shall forthwith attach to said petition, except the signatures thereto appended, his certificate, properly dated, showing the result of said examination and shall forthwith transmit said petition, together with his said certificate, to the secretary of state and also file a copy of said certificate in his office. Within forty days from the transmission of the said petition and certificate by the clerk or registrar to the secretary of state, a supplemental petition identical with the original as to the body of the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid. The clerk or registrar of voters shall within ten days after the filing of such supplemental petition make like examination thereof, as of the original petition, and upon the completion of such examination shall forthwith attach to said petition his certificate, properly dated, showing the result of said examination, and shall forthwith transmit a copy of said supplemental petition, except the signatures thereto appended, together with his certificate, to the secretary of state.

When the secretary of state shall have received from one or more county clerks or registrars of voters a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county in the state his certificate showing such fact. A petition shall be deemed to be filed with the secretary of state upon the date of the receipt by him of a certificate or certificates showing said petition to be signed by the requisite number of electors of the state. Any county clerk or registrar of voters shall, upon receipt of such copy, file the same for record in his office.

The duties herein imposed upon the clerk or registrar of voters shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.

The Initiative and Referendum powers of the people are hereby further reserved to the electors of each county, city and county, city and town of the state, to be exercised under such procedure as may be provided by law. Until otherwise provided by law, the legislative body of any such county, city and county, city or town may provide for the manner of exercising the Initiative and Referendum powers herein reserved to such counties, cities and counties, cities and town, but shall not require more than fifteen per cent. of the electors thereof to propose any Initiative measure nor more than ten per cent of the electors thereof to order the Referendum. Nothing contained in this section shall be construed as affecting or limiting the present or future powers of cities or cities and counties having charters adopted under the provisions of section eight of article eleven of this constitution.

In the submission to the electors of any measure under this section, all officers shall be guided by the general laws of this state, except as herein otherwise provided.

This section is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting either the provisions of this section or the powers herein reserved.

## COLORADO.

### Article V.

SECTION 1. The legislative power of the state shall be vested in the general assembly consisting of a senate and house of representatives, both to be elected by the people, but the people reserve to themselves the power to propose laws and amendments to the constitution and to enact or reject the same at the polls independent of the general assembly, and also reserve a power at their own option to approve or reject at the polls any act, item, section or part of any act of the general assembly.

The first power hereby reserved by the people is the Initiative, and at least 8 per cent. of the legal voters shall be required to propose any measure by petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions for state legislation and amendments to the constitution, shall be addressed to and filed with the secretary of state at least four months before the election at which they are to be voted upon.

The second power hereby reserved is the Referendum, and it may be ordered, except as to laws necessary for the immediate preservation of the public peace, health or safety, and appropriations for the support and maintenance of the department of state and state institutions, against any act, section or part of any act of the general assembly, either by a petition signed by five per cent. of the legal voters or by the general assembly. Referendum petitions shall be addressed to and filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly, that passed the bill on which the Referendum is demanded. The filing of a referendum petition against any item, section or part of any act, shall not delay the remainder of the act from becoming operative. The veto power of the governor shall not extend to measures initiated by, or referred to the people. All elections on measures referred to the people of the state shall be held at the biennial regular general election, and all such measures shall become the law or a part of the constitution, when approved by a majority of the votes cast thereon, and not otherwise, and shall take effect from and after the date of the official declaration of the vote thereon by proclamation of the governor, but not later than thirty days after the vote has been canvassed. This section shall not be construed to deprive the general assembly of the right to enact any measure. The whole number of votes

cast for secretary of state at the regular general election last preceding the filing of any petition for the Initiative or Referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted.

The secretary of state shall submit all measures initiated by or referred to the people for adoption or rejection at the polls, in compliance herewith. The petition shall consist of sheets having such general form printed or written at the top thereof as shall be designated or prescribed by the secretary of state; such petition shall be signed by qualified electors in their own proper persons only, to which shall be attached the residence address of such person and the date of signing the same. To each of such petitions, which may consist of one or more sheets, shall be attached an affidavit of some qualified elector, that each signature thereon is the signature of the person whose name it purports to be, and and that to the best of the knowledge and belief of the affiant, each of the persons signing said petition was at the time of signing, a qualified elector. Such petition so verified shall be prima facie evidence that the signatures thereon are genuine and true and that the persons signing the same are qualified electors. The text of all measures to be submitted shall be published as constitutional amendments are published, and in submitting the same and in all matters pertaining to the form of all petitions the secretary of state and all other officers shall be guided by the general laws, and the act submitting this amendment, until legislation shall be especially provided therefor.

The style of all laws adopted by the people through the Initiative shall be, "Be it enacted by the people of the state of Colorado."

The Initiative and Referendum powers reserved to the people by this section are hereby further reserved to the legal voters of every city, town and municipality as to all local, special and municipal legislation of every character in or for their respective municipalities. The manner of exercising said powers shall be prescribed by general laws, except that cities, towns and municipalities may provide for the manner of exercising the Initiative and Referendum powers as to their municipal legislation. Not more than ten per cent. of the legal voters may be required to order the Referendum, nor more than fifteen per cent. to propose any measure by the Initiative in any city, town or municipality.

This section of the constitution shall be in all respects self-executing.

SEC. 3. Each elector voting at said election and desirous of voting for or against this amendment shall deposit in the ballot box a ticket whereon shall be printed or written the words, "For the amendment to Section one of Article V of the constitution providing for the Initiative and Referendum," and "Against the amendment to Section one of Article V of the constitution providing for the Initiative and Referendum," and shall indicate his or her approval or rejection of the proposition by



placing a cross (X) after one of such sentences. The vote cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by the laws of the state of Colorado for the canvass of votes for representatives in congress.

## **MAINE.**

### **Article IV.**

#### **PART I.**

SECTION 1. The legislative power shall be vested in two distinct branches, a house of representatives and a senate, each to have a negative on the other, and both to be styled the legislature of Maine, but the people reserve to themselves power to propose laws and to enact or reject the same at the polls independent of the legislature, and also reserve power at their own option to approve or reject at the polls any act, bill, resolve or resolution passed by the joint action of both branches of the legislature, and the style of their laws and acts shall be, "Be it enacted by the people of the state of Maine."

#### **PART III.**

SECTION 1. The legislature shall convene on the first Wednesday of January, biennially, and, with the exceptions hereinafter stated, shall have full power to make and establish all reasonable laws and regulations for the defense and benefit of the people of this state, not repugnant to this constitution nor to that of the United States.

SEC. 17. Upon the written petition of not less than ten thousand electors, addressed to the governor and filed in the office of the secretary of state within ninety days after the recess of the legislature, requesting that one or more acts, bills, resolves, or resolutions, or part or parts thereof, passed by the legislature but not then in effect by reason of the provisions of the preceding section, be referred to the people, such acts, bills, resolves or resolutions, or part or parts thereof as are specified in such petition shall not take effect until thirty days after the governor shall have announced by public proclamation that the same have been ratified by a majority of the electors voting thereon at a general or special election. As soon as it appears that the effect of any act, bill, resolve or resolution, or part or parts thereof, has been suspended by petition in manner aforesaid, the governor by public proclamation shall give notice thereof and of the time when such measure is to be voted on by the people, which shall be at the next general election not less than sixty days after such proclamation, or in case of no general election within six months thereafter the governor may, and if so requested in said written petition therefor, shall order such measure submitted to the

people at a special election not less than four nor more than six months after his proclamation thereof.

SEC. 18. The electors may propose to the legislature for its consideration any bill, resolve or resolution, including bills to amend or repeal emergency legislation, but not an amendment of the state constitution, by written petition addressed to the legislature or to either branch thereof and filed in the office of the secretary of state or presented to either branch of the legislature at least thirty days before the close of its session. Any measure thus proposed by not less than twelve thousand electors, unless enacted without change by the legislature at the session at which it is presented, shall be submitted to the electors together with any amended form, substitute, or recommendation of the legislature, and in such manner that the people can choose between the competing measures or reject both. When there are competing bills and neither receives a majority of the votes given for or against both, the one receiving the most votes shall at the next general election, to be held not less than sixty days after the first vote thereon, be submitted by itself if it receives more than one-third of the votes given for and against both. If the measure initiated is enacted by the legislature without change, it shall not go to a Referendum vote unless in pursuance of a demand made in accordance with the preceding section. The legislature may order a special election on any measure that is subject to a vote of the people. The governor may, and if so requested in the written petitions addressed to the legislature, shall by proclamation, order any measure proposed to the legislature by at least twelve thousand electors as herein provided, and not enacted by the legislature without change, referred to the people at a special election to be held not less than four nor more than six months after such proclamation, otherwise said measure shall be voted upon at the next general election held not less than sixty days after the recess of the legislature, to which such measure was proposed.

SEC. 19. Any measure referred to the people and approved by a majority of the votes given thereon shall, unless a later date is specified in said measure, take effect and become a law in thirty days after the governor has made public proclamation of the result of the vote on said measure, which he shall do within ten days after the vote thereon has been canvassed and determined. The veto power of the governor shall not extend to any measure approved by vote of the people, and any measure initiated by the people and passed by the legislature without change, if vetoed by the governor and if his veto is sustained by the legislature shall be referred to the people to be voted on at the next general election. The legislature may enact measures expressly conditioned upon the people's ratification by a Referendum vote.

SEC. 20. As used in either of the three preceding sections the words "electors" and "people" mean the electors of the state qualified to vote.

for governor; "recess of the legislature" means the adjournment without day of a session of the legislature; "general election" means the November election for choice of presidential electors or the September election for choice of governor and other state and county officers; "measure" means an act, bill, resolve or resolution proposed by the people, or two or more such, or part or parts of such, as the case may be; "written petition" means one or more petitions written or printed, or partly written and partly printed, with the original signatures of the petitioners attached, verified as to the authenticity of the signatures by the oath of one of the petitioners certified thereon, and accompanied by the certificate of the clerk of the city, town or plantation in which the petitioners reside that their names appear on the voting list of his city, town or plantation as qualified to vote for governor. The petitions shall set forth the full text of the measure requested or proposed. The full text of a measure submitted to a vote of the people under the provisions of the constitution need not be printed on the official ballots, but, until otherwise provided by the legislature, the secretary of state shall prepare the ballots in such form as to present the question or questions concisely and intelligibly.

SEC. 21. The city council of any city may establish the Initiative and Referendum for the electors of such city in regard to its municipal affairs, provided that the ordinance establishing and providing the method of exercising such Initiative and Referendum shall not take effect until ratified by vote of a majority of the electors of said city, voting thereon at a municipal election. Provided, however, that the legislature may at any time provide a uniform method for the exercise of the Initiative and Referendum in municipal affairs.

SEC. 22. Until the legislature shall enact further regulations not inconsistent with the constitution for applying the people's veto and direct Initiative, the election officers and other officials shall be governed by the provisions of this constitution and of the general law, supplemented by such reasonable action as may be necessary to render the preceding section self-executing.

## MISSOURI.

### Article IV.

SECTION 1. The legislative authority of the state shall be vested in a legislative assembly, consisting of a senate and house of representatives, but the people reserve to themselves power to propose laws and amendments to the constitution, and to enact or reject the same at the polls, independent of the legislative assembly, and also reserve power at their own option to approve or reject at the polls any act of the legislative assembly. The first power reserved by the people is the Initiative, and not more than eight per cent. of the legal voters in each of at least two-

thirds of the congressional districts in the state shall be required to propose any measure by such petition and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon.

The second power is the Referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety, and laws making appropriations for the current expenses of the state government, for the maintenance of the state institutions and for the support of the public schools) either by the petition signed by five per cent. of the legal voters in each of at least two-thirds of the congressional districts in the state, or by the legislative assembly, as other bills are enacted. Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded.

The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people of the state shall be had at the biennial regular general elections, except when the legislative assembly shall order a special election. Any measure referred to the people shall take effect and become the law when it is approved by a majority of the votes cast thereon, and not otherwise. The style of all bills shall be: "Be it enacted by the People of the State of Missouri."

This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure. The whole number of votes cast for justice of the supreme court at the regular election last preceding the filing of any petition for the Initiative or for the Referendum, shall be the basis on which the number of legal voters necessary to sign such petition shall be counted. Petitions and orders for the Initiative and for the Referendum shall be filed with the secretary of state, and in submitting the same to the people he, and all other officers shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor.

## **MONTANA.**

### **Article V.**

SECTION 1. The legislative authority of the state shall be vested in a legislative assembly consisting of a senate and house of representatives; but the people reserve to themselves power to propose laws, and to enact or reject the same at the polls, except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in Article V, Section 26, of this constitution, independent

of the legislative assembly; and also reserve power at their own option, to approve or reject at the polls, any act of the legislative assembly, except as to laws necessary for the immediate preservation of the public peace, health or safety, and except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in Article V, Section 26, of this constitution. The first power reserved by the people is the Initiative, and eight per cent. of the legal voters of the state shall be required to propose any measure by petition; provided, that two-thirds of the whole number of the counties of the state must each furnish as signers of said petition, eight per cent. of the legal voters in such county, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon.

The second power is the Referendum, and it may be ordered either by petition, signed by five per cent. of the legal voters of the state; provided, that two-fifths of the whole number of the counties of the state must each furnish as signers of said petition five per cent. of the legal voters in such county, or, by the legislative assembly as other bills are enacted.

Referendum petitions shall be filed with the secretary of state not later than six months after the final adjournment of the session of the legislative assembly which passed the bill on which the Referendum is demanded. The veto power of the governor shall not extend to measures referred to the people by the legislative assembly or by Initiative Referendum petitions.

All elections on measures referred to the people of the state shall be had at the biennial regular general election, except when the legislative assembly, by majority vote, shall order a special election. Any measure referred to the people shall still be in full force and effect unless such petition be signed by fifteen per cent. of the legal voters of a majority of the whole number of the counties of the state, in which case the law shall be inoperative until such time as it shall be passed upon at an election, and the result has been determined and declared as provided by law. The whole number of votes cast for governor at the regular election last preceding the filing of any petition for the Initiative or Referendum, shall be the basis on which the number of legal petitions and orders for the Initiative and for the Referendum shall be filed with the secretary of state; and in submitting the same to the people, he, and all other officers, shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor. The enacting clause of every law originated by the Initiative shall be as follows:

"Be it enacted by the people of Montana."

This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure.

## **NEVADA.**

### **Article XIX.**

SECTION 1. Whenever ten per centum or more of the voters of this state, as shown by the number of votes cast at the last preceding general election, shall express their wish that any law or resolution made by the legislature be submitted to a vote of the people, the officers charged with the duty of announcing and proclaiming elections, and of certifying nominations, or questions to be voted on, shall submit the question of the approval or disapproval of said law or resolution to be voted at the next ensuing election wherein a state or congressional officer is to be voted for, or wherein any question may be voted on by the electors of the entire state.

SEC. 2. When a majority of the electors voting at a state election shall by their votes signify approval of a law or resolution, such law or resolution shall stand as the law of the state, and shall not be overruled, annulled, set aside, suspended, or in any way made inoperative except by the direct vote of the people. When such majority shall so signify disapproval, the law or resolution so disapproved shall be void and of no effect.

## **NEW MEXICO.**

### **Article IV.**

SECTION 1. The legislative power shall be vested in a senate and house of representatives which shall be designated the legislature of the state of New Mexico, and shall hold its sessions at the seat of government.

The people reserve the power to disapprove, suspend and annul any law enacted by the legislature, except general appropriation laws; laws providing for the preservation of the public peace, health or safety; for the payment of the public debt or interest thereon, or the creation or funding of the same except as in this constitution otherwise provided; for the maintenance of the public schools or state institutions, and local or special laws. Petitions disapproving any law other than those above excepted, enacted at the last preceding session of the legislature, shall be filed with the secretary of state not less than four months prior to the next general election. Such petitions shall be signed by not less than ten per centum of the qualified electors of each of three-fourths of the counties and in the aggregate by not less than ten per centum of the qualified electors of the state, as shown

by the total number of votes cast at the last preceding general election. The question of the approval or rejection of such law shall be submitted by the secretary of state to the electorate at the next general election; and if a majority of the legal votes cast thereon, and not less than forty per centum of the total number of legal votes cast at such general election, be cast for the rejection of such law, it shall be annulled and thereby repealed with the same effect as if the legislature had then repealed it, and such repeal shall revive any law repealed by the act so annulled; otherwise, it shall remain in force unless subsequently repealed by the legislature. If such petition or petitions be signed by not less than twenty-five per centum of the qualified electors under each of the foregoing conditions, and be filed with the secretary of state within ninety days after the adjournment of the session of the legislature at which such law was enacted, the operation thereof shall be thereupon suspended and the question of its approval or rejection shall be likewise submitted to a vote at the next ensuing general election. If a majority of the votes cast thereon and not less than forty per centum of the total number of votes cast at such general election be cast for its rejection, it shall be thereby annulled; otherwise, it shall go into effect upon publication of the certificate of the secretary of state declaring the result of the vote thereon. It shall be a felony for any person to sign any such petition with any name other than his own, or to sign his name more than once for the same measure, or to sign such petition when he is not a qualified elector in the county specified in such petition; provided, that nothing herein shall be construed to prohibit the writing thereon of the name of any person who cannot write, and who signs the same with his mark. The legislature shall enact laws necessary for the effective exercise of the power hereby reserved.

## OKLAHOMA.

### Article V.

SECTION 1. The legislative authority of the state shall be vested in a legislature, consisting of a senate and a house of representatives; but the people reserve to themselves the power to propose laws and amendments to the constitution and to enact or reject the same at the polls independent of the legislature, and also reserve power at their own option to approve or reject at the polls any act of the legislature.

SEC. 2. The first power reserved by the people is the Initiative, and eight per centum of the legal voters shall have the right to propose any legislative measure, and fifteen per centum of the legal voters shall have the right to propose amendments to the constitution by petition, and every such petition shall include the full text of the measure so proposed. The second power is the Referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health,

or safety), either by petition signed by five per centum of the legal voters or by the legislature as other bills are enacted. The ratio and per centum of legal voters herein before stated shall be based upon the total number of votes cast at the last general election for the state office receiving the highest number of votes at such election.

SEC. 3. Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislature which passed the bill on which the Referendum is demanded. The veto power of the governor shall not extend to measures voted on by the people. All elections on measures referred to the people of the state shall be had at the next election held throughout the state, except when the legislature or the governor shall order a special election for the express purpose of making such reference. Any measure referred to the people by the Initiative shall take effect and be in force when it shall have been approved by a majority of the votes cast in such election. Any measure referred to the people by the Referendum shall take effect and be in force when it shall have been approved by a majority of the votes cast thereon and not otherwise.

The style of all bills shall be: "Be it enacted by the People of the State of Oklahoma."

Petitions and orders for the Initiative and for the Referendum shall be filed with the secretary of state and addressed to the governor of the state, who shall submit the same to the people. The legislature shall make suitable provisions for carrying into effect the provisions of this article.

SEC. 4. The Referendum may be demanded by the people against one or more items, sections, or parts of any act of the legislature in the same manner in which such power may be exercised against a complete act. The filing of a Referendum petition against one or more items, sections, or parts of an act shall not delay the remainder of such act from becoming operative.

SEC. 5. The powers of the Initiative and Referendum reserved to the people by this constitution for the state at large, are hereby further reserved to the legal voters of every county and district therein, as to all local legislation, or action, in the administration of county and district government in and for their respective counties and districts.

The manner of exercising said powers shall be prescribed by general laws, except that boards of county commissioners may provide for the time of exercising the Initiative and Referendum powers as to local legislation in their respective counties and districts.

The requisite number of petitioners for the invocation of the Initiative and Referendum in counties and districts shall bear twice, or double, the ratio to the whole number of legal voters in such county or district, as herein provided therefor in the state at large.

SEC. 6. Any measure rejected by the people through the powers of



the Initiative and Referendum cannot be again proposed by the Initiative within three years thereafter by less than twenty-five per centum of the legal voters.

SEC. 7. The reservation of the powers of the Initiative and Referendum in this article shall not deprive the legislature of the right to repeal any law, propose or pass any measure, which may be consistent with the constitution of the state and the constitution of the United States.

SEC. 8. Laws shall be provided to prevent corruption in making, procuring and submitting Initiative and Referendum petitions.

## OREGON.

### Article IV.

SECTION 1. The legislative authority of the state shall be vested in a legislative assembly, consisting of a senate and house of representatives, but the people reserve to themselves power to propose laws and amendments to the constitution and to enact or reject the same at the polls, independent of the legislative assembly, and also reserve power at their own option to approve or reject at the polls any act of the legislative assembly. The first power reserved by the people is the Initiative, and not more than eight per cent. of the legal voters shall be required to propose any measure by such petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon. The second power is the Referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety), either by the petition signed by five per cent. of the legal voters, or by the legislative assembly, as other bills are enacted. Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislative assembly which passed the bill on which the Referendum is demanded. The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people shall be had at the biennial regular general election, except when the legislative assembly shall order a special election. Any measure referred to the people shall take effect and become the law when it is approved by a majority of the votes cast therein, and not otherwise. The style of all bills shall be: "Be it enacted by the people of the state of Oregon." This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure. The whole number of votes cast for justice of the supreme court at the regular election last preceding the filing of any petition for the Initiative or for the Referendum shall be the basis on which the number of legal voters necessary to sign such

petition shall be counted. Petitions and orders for the Initiative and for the Referendum shall be filed with the secretary of state, and in submitting the same to the people he, and all other officers, shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor.

SEC. 1a. The Referendum may be demanded by the people against one or more items, sections or parts of any act of the legislative assembly, in the same manner in which such power may be exercised against a complete act. The filing of a Referendum petition against one or more items, sections or parts of an act shall not delay the remainder of that act from becoming operative. The Initiative and Referendum powers reserved to the people by this constitution are hereby further reserved to all local, special and municipal legislation of every character, in and for their respective municipalities and districts. The manner of exercising said powers shall be prescribed by general laws, except that cities and towns may provide for the manner of exercising the Initiative and Referendum powers as to their municipal legislation. Not more than ten per cent. of the legal voters may be required to order the Referendum nor more than fifteen per cent. to propose any measure, by the Initiative, in any city or town.

## Article XVII.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either branch of the legislative assembly, and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered in their journals and referred by the secretary of state to the people for their approval or rejection, at the next regular general election, except when the legislative assembly shall order a special election for that purpose. If a majority of the electors voting on any such amendment shall vote in favor thereof, it shall thereby become a part of this constitution. The votes for and against such amendment or amendments, severally, whether proposed by the legislative assembly or by Initiative petition, shall be canvassed by the secretary of state in the presence of the governor, and if it shall appear to the governor that the majority of the votes cast at said election on said amendment or amendments, severally, are cast in favor thereof, it shall be his duty forthwith after such canvass, by his proclamation, to declare the said amendment or amendments, severally, having received said majority of votes to have been adopted by the people of Oregon as a part of the constitution thereof, and the same shall be in effect as a part of the constitution from the date of such proclamation. When two or more amendments shall be submitted in the manner aforesaid to the voters of this state, at the same election, they shall be so submitted that each amendment shall be voted on separately. No convention shall be called to

amend or propose amendments to this constitution, or to propose a new constitution, unless the law providing for such convention shall first be approved by the people on a Referendum vote at a regular general election. This article shall not be construed to impair the right of the people to amend this constitution by vote upon an Initiative petition therefor.

## SOUTH DAKOTA.

### Article III.

SECTION I. The legislative power shall be vested in a legislature which shall consist of a senate and house of representatives. Except that the people expressly reserve to themselves the right to propose measures, which measures the legislature shall enact and submit to a vote of the electors of the state, and also the right to require that any laws which the legislature may have enacted shall be submitted to a vote of the electors of the state before going into effect, (except such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions): Provided, that not more than five per centum of the qualified electors of the state shall be required to invoke either the Initiative or the Referendum. This section shall not be construed so as to deprive the legislature or any member thereof of the right to propose any measure. The veto power of the executive shall not be exercised as to measures referred to a vote of the people. This section shall apply to municipalities. The enacting clause of all laws approved by vote of the electors of the state shall be: "Be it enacted by the people of South Dakota." The legislature shall make suitable provisions for carrying into effect the provisions of this section.

## SOUTH DAKOTA.

### Initiative and Referendum Laws.

(Revised Political Code 1903.)

#### ARTICLE 3.—THE INITIATIVE AND REFERENDUM.<sup>1</sup>

21. All measures proposed to the legislature under the Initiative shall be presented by petition, which petition shall be signed by not less than five per cent. of the qualified electors of the state, and each elector shall add to his signature his place of residence, his business and his postoffice address. The petition shall be filed in the office of the secretary of state, and upon the convening of the legislature the secretary of state shall transmit to the senate and house of representatives certified copies of all of said petitions which may be on file in the office of the secretary

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<sup>1</sup>In South Dakota a brief general constitutional provision is supplemented by a specific legislative enactment.

of state at the convening of said legislature, and whenever a measure is proposed during the session of the legislature it shall be transmitted by the secretary of state forthwith to the senate and house of representatives, and the legislature shall enact and submit all of such proposed measures to a vote of the electors of the state at the next general election.

22. If a majority of all the votes cast both for and against the measure so enacted and submitted be for the measure, it shall then become a law of the state of South Dakota, and shall go into effect and be in force immediately after the result shall have been determined by the officers authorized by law to determine the same.

23. Any laws which the legislature may have enacted, except laws which may be necessary for the immediate preservation of the public peace, health and safety, support to the state government and its existing institutions, shall, upon the filing of a petition as hereinafter provided, be submitted to a vote of the electors of the state at the next general election. Said petition shall be signed by not less than five per cent. of the qualified electors of the state, and each elector shall add to his signature his place of residence, his business and postoffice address, which petition shall be filed in the office of the secretary of state within ninety days after the adjournment of the legislature which passed such laws, and if a majority of all the votes cast both for and against the law be for the law, it shall then become a law of this state, and shall go into effect and be in force immediately after the result shall have been determined by the officers authorized by law to determine the same.

State ex rel. Lavin vs. Bacon et al, 14 S. D. 394.

§ 24. Whenever a measure or law of the legislature is submitted to the electors, the said measure or law shall be printed upon a separate ballot from that upon which the names of the candidates for office are printed, but all measures and laws of the legislature to be voted upon at the same election shall be printed upon one ballot, and each measure and law shall be followed by the words: "Shall the above measure or law (as the case may be) become a law of this state?" Immediately to the left of which shall be printed the words, "Yes" and "No", each preceded by a square in which the elector may place a cross within such square to indicate his vote. Each elector desiring to vote "Yes" may place a cross within the square before the word "Yes," and those desiring to vote "No" may place a cross within the square before the word "No," and the secretary of state shall prepare and certify to the county auditor of each county the measures and laws to be voted upon at such general election in the manner and at the same time he certifies to said auditor certificates of nominations for general elections, and it is hereby made the duty of the board of state canvassers to canvass the returns of votes cast for these measures and laws, and to declare the result, in the same man-

ner and at the same time as other returns are canvassed, and the result declared by said board of state canvassers for state officers.

§ 25. The total number of votes cast at the last preceding general election, shall be, for the purpose of this article, the basis upon which the five per cent of the electors shall be determined, and the vote upon which said basis shall be made shall be the vote cast for governor at such general election.

§ 26. Every petition to propose a measure must contain the substance of the Initiative law desired, and must be signed in person by the petitioners, and every petition to submit a law to a vote of the electors of the state must be signed in person by the petitioners and must describe in said petition the law desired to be submitted by setting forth its title, together with the date of its passage and approval.

§ 27. Every person who is a qualified elector may sign a petition to propose a measure or submit a law, and any person signing any name other than his own to said petition, or any person signing such petition who is not a qualified elector of this state, shall, upon conviction therefor, be fined in any sum not to exceed five hundred dollars or may be imprisoned in the state penitentiary for a term not to exceed five years; and the court may, in its discretion, impose both such fine and imprisonment.

#### INITIATIVE AND REFERENDUM.

§ 1214. No laws, ordinance or resolution, having the effect of law, for the government of any city or town passed by the legislative body or bodies thereof, except such as are for the immediate preservation of the public peace, or the public health, or safety, or expenditure of money in the ordinary course of the administration of the affairs of such public corporation, shall go into effect until twenty days after the passage of such law, ordinance or resolution, and the words law, ordinance or resolution used in this article mean ordinances, resolves, orders, agreements, contracts, franchises and any measure which it is in the power of the law-makers or the electors of any municipality to enact.

§ 1215. The qualified electors residing in any city or town, may within the said twenty days file a petition with the auditor, or other proper officer or clerk thereof, requiring him to submit any such law, ordinance or resolution, to a vote of the electors of the political subdivision affected thereby for its rejection or approval, at a special election to be held within thirty days immediately following the filing of said petition.

*Provided*, that in all cases where such petitions are filed at any time, not more than three months immediately prior to any election held for the purpose of electing the officers of said city or town, such law, ordinance or resolution shall be submitted at such election, provided such

petitions are filed within sufficient time to give the notice above prescribed.

§ 1216. If the matter intended to be covered by said petition is the whole of said law, ordinance, or resolution, said petition shall contain title of the said law, ordinance, or resolution to be voted on by the electors, and the date of the passage of said law, ordinance or resolution by the legislative body of said municipal corporation but if a portion of said law, ordinance or resolution is only intended to be covered by the said petition, then the said petition shall contain the title of said law, ordinance or resolution, the date of its passage, following which that portion of said law, ordinance or resolution intended to be covered by said petition, shall be set out at length, and said petition, to be mandatory, shall be signed by at least five per centum of the legal voters residing in such city, or town, the percentage to be based on the whole number of votes cast for the highest executive officer in said city or town, at the election immediately preceding the filing of said petition, which said petition shall conform substantially to the provisions of the preceding section and each elector signing the same, shall after his name state his occupation, residence and postoffice address.

§ 1217. An oath shall be made before a duly qualified officer by at least five voters signing said petition, or if more than one, each petition, to the effect that said petition is made in good faith, and that the affiant verily believes all the signatures to be genuine, and those of duly qualified voters, which said oath shall be substantially and in the following form:

STATE OF SOUTH DAKOTA,

COUNTY OF.....SS:

..... being duly sworn, on their oaths, respectively, do say that the foregoing petition is made in good faith, and that they verily believe all the signatures thereto to be genuine, and those of duly qualified voters.

§ 1218. It shall be the duty of the auditor or clerk of the said city or town to cause the entire law, ordinance or resolution set forth in said petition to be advertised in one of the newspapers published in such municipal corporation at least five days prior to such election, which publication shall be daily until such election in one daily paper published within said municipal corporation, but if there is no daily newspaper published within said municipal corporation one publication in a legal newspaper published in said municipal corporation not less than five nor more than twelve days prior to such election, shall be sufficient: *Provided*, if there is no newspaper published in such municipal corporation, then the auditor or clerk shall publish such law, ordinance or resolution,

by posting or causing to be posted the entire law, ordinance or resolution at least five days prior to the date of said election at three public places within the limit of each voting precinct of said city or town. *Provided, further,* that the publication of said law, ordinance or resolution in said newspaper, or by the said posting as above provided, shall contain a notification that on that day of election therein stated, the said law, ordinance or resolution will be submitted to the Referendum, and if a portion of said law, ordinance or resolution only is covered by said petition, then a notification as to what particular portion of the said law, ordinance or resolution will be submitted to the said Referendum.

§ 1219. It shall be the duty of said auditor or clerk to have the ballots printed for the vote upon said law, ordinance or resolution, and cause same to be distributed in the proper proportion in each voting precinct, in his city or town in the manner now provided for the distribution of ballots by the election laws, of the state. Any or all questions shall be submitted on a separate ballot from those containing the names of the candidates for office, and shall be submitted to the people in such form as will enable the electors to vote understandingly upon each question presented, and shall conform as near as may be to the manner employed to vote upon constitutional amendments. *Provided,* that all questions to be voted upon at the same election may be submitted upon the same ballot.

§ 1220. The auditor or clerk of the said city or town shall preserve the original of all petitions filed in his office in voting the Referendum for a period of at least two years from the date following said petition, during which time said petition shall be open to public inspection upon reasonable request made.

§ 1221. Such law, ordinance or resolution, shall not go into effect unless approved by a majority of the votes cast for and against the same, and shall go into effect immediately after the canvassing and determination of the election returns, if approved by the electors.

§ 1222. The appointment of judges and clerks, holding of election, and time of election, the canvassing, counting, returning and announcing of a referendary vote on any law, ordinance or resolution, and payment of election expenses shall be done in the manner already prescribed by law in the case of the election of the officers of the municipal corporation to be affected by the law, ordinance or resolution in question.

§ 1223. The right to propose laws, ordinances or resolutions having the effect of law, for the government of any city or town shall rest with any five per centum of the electors of the political sub-division affected, the percentage in each instance, to be based upon the number of votes cast at the last general election for the highest executive officer of such political sub-division held previously to the proposal of the law in question.

§ 1224. A proposal for such law, ordinance, or resolution shall be made by petition to the auditor or clerk of the municipal corporation. The petition shall be signed by five percentum of the legal voters of any political sub-division affected by such law, ordinance or resolution, each elector stating his occupation, residence and postoffice address and shall be filed with the auditor of said municipal corporation after the manner prescribed by the provisions of this article for the petition of the Referendum, and said petition shall contain in proper form the proposed law, ordinance or resolution.

§ 1225. When such petition is filed with the auditor or clerk of such municipal corporation, he shall at the first ensuing session or special session, called, submit said proposal to the legislative body thereof; and if the proposal is not adopted, or cannot be adopted by reason of want of authority by such legislative body, it shall be referred to a vote of the electors of such municipal corporation within the time and manner prescribed by this article providing for the Referendum.

§ 1226. Such law, ordinance or resolution shall go into effect if approved by a majority of the votes cast for and against the same.

§ 1227. The right of any person to vote at any election on any proposition submitted to the Referendum or Initiative, may be challenged in the same manner and for the same cause as by law provided in the case of challenging electors.

§ 1228. Any person, or persons, violating any of the provisions of this article or wilfully failing to execute any of the provisions of this article shall be guilty of a misdemeanor, and on conviction, be fined not less than one hundred dollars nor more than five hundred dollars, or by imprisonment not less than thirty days nor more than six months, in the county jail, or by both such fine and imprisonment, in the discretion of the court.

## UTAH.

### Article VI.

SECTION 1. The legislative power of the state shall be vested:

1. In a senate and house of representatives, which shall be designated the legislature of the state of Utah.

2. The people of the state of Utah, as hereinafter stated:

The legal voters, or such fractional part thereof, of the state of Utah, as may be provided by law, under such conditions, and in such manner and within such time as may be provided by law, may initiate any desired legislation and cause the same to be submitted to a vote of the people for approval or rejection, or may require any law passed by the legislature, (except those passed by a two-thirds vote of the members elected to each house of the legislature) to be submitted to the voters of the state before such law shall take effect.



The legal voters or such fractional part thereof as may be provided by law, of any legal subdivision of the state, under such conditions and in such manner and within such time as may be provided by law, may initiate any desired legislation and cause the same to be submitted to a vote of the people of said legal subdivision for approval or rejection, or may require any law or ordinance passed by the law-making body of said legal subdivision to be submitted to the voters thereof before such law or ordinance shall take effect.

SEC. 22. The enacting clause of every law shall be, "Be it enacted by the legislature of the state of Utah." Except such laws as may be passed by the vote of the electors as provided in subdivision 2, section 1 of this article, and such laws shall begin as follows: "Be it enacted by the people of the state of Utah." \* \* \*

### WISCONSIN.

**Proposed Initiative and Referendum Amendment to the Constitution, which has passed one legislature and must be approved by the succeeding legislature before it is submitted to a vote of the people:**

*Resolved by the Assembly, the Senate concurring,* That section 1, of article IV of the constitution, be amended to read:

SECTION 1. 1. The legislative power shall be vested in a senate and assembly, but the people reserve to themselves power, as herein provided, to propose laws and to enact or reject the same at the polls, independent of the legislature, and to approve or reject at the polls any law or any part of any law enacted by the legislature. The limitations expressed in the constitution on the power of the legislature to enact laws, shall be deemed limitations on the power of the people to enact laws.

2. a. Any senator or member of the assembly may introduce, by presenting to the chief clerk in the house of which he is a member. in open session, at any time during any session of the legislature, any bill or any amendment to any such bill; provided, that the time for so introducing a bill may be limited by rule to not less than thirty legislative days.

b. The chief clerk shall make a record of such bill and every amendment offered thereto and have the same printed.

3. A proposed law shall be recited in full in the petition, and shall consist of a bill which has been introduced in the legislature during the first thirty legislative days of the session, as so introduced; or, at the option of the petitioners, there may be incorporated in said bill any amendment or amendments introduced in the legislature. Such bill and amendments shall be referred to by number in the petition. Upon petition filed not later than four months before the next general election, such proposed law shall be submitted to a vote of the people, and shall become

a law if it is approved by a majority of the electors voting thereon, and shall take effect and be in force from and after thirty days after the election at which it is approved.

4. a. No law enacted by the legislature, except an emergency law, shall take effect before ninety days after its passage and publication. If within said ninety days there shall have been filed a petition to submit to a vote of the people such law or any part thereof, such law or such part thereof shall not take effect until thirty days after it is approved by a majority of the qualified electors voting thereon.

b. An emergency law shall remain in force, notwithstanding such petition, but shall stand repealed thirty days after being rejected by a majority of the qualified electors voting thereon.

c. An emergency law shall be any law declared by the legislature to be necessary for any immediate purpose by a two-thirds vote of the members of each house voting thereon, entered on their journals by the yeas and nays. No law making any appropriation for maintaining the state government or maintaining or aiding any public institution, not exceeding the next previous appropriation for the same purpose, shall be subject to rejection or repeal under this section. The increase in any such appropriation shall only take effect as in case of other laws, and such increase, or any part thereof, specified in the petition may be referred to a vote of the people upon petition.

5. If measures which conflict with each other in any of their essential provisions are submitted at the same election, only the measure receiving the highest number of votes shall stand as the enactment of the people.

6. The petition shall be filed with the secretary of state and shall be sufficient to require the submission by him of a measure to the people when signed by eight per cent. of the qualified electors calculated upon the whole number of votes cast for governor at the last preceding election, of whom not more than one-half shall be residents of any one county.

7. The vote upon measures referred to the people shall be taken at the next election occurring not less than four months after the filing of the petition, and held generally throughout the state pursuant to law or specially called by the governor.

8. The legislature shall provide for furnishing electors the text of all measures to be voted upon by the people.

9. Except that measures specifically affecting a subdivision of the state may be submitted to the people of that subdivision, the legislature shall submit measures to the people only as required by the constitution.

Be it further resolved by the assembly, the senate concurring, That article XII of the constitution, be amended by creating a new section to read:

Section 3. 1. a. Any senator or member of the assembly may introduce, by presenting to the chief clerk in the house in which he is a member, in open session, at any time during any session of the legislature, any proposed amendment to the constitution or any amendment to any such proposed amendment to the constitution; provided, that the time for so introducing a proposed amendment to the constitution may be limited by rule to not less than thirty legislative days.

b. The chief clerk shall make a record of such proposed amendments to the constitution and any amendment thereto and have the same printed.

2. Any proposed amendment to the constitution shall be recited in full in the petition and shall consist of an amendment which has been introduced in the legislature during the first thirty legislative days, as so introduced, or, at the option of the petitioners, there may be incorporated therein any amendment or amendments thereto introduced in the legislature. Such amendment to the constitution and amendment thereto shall be referred to by number in the petition. Upon petition filed not later than four months before the next general election, such proposed amendment shall be submitted to the people.

3. The petition shall be filed with the secretary of state and shall be sufficient to require the submission by him of a proposed amendment to the constitution to the people when signed by ten per cent. of the qualified electors, calculated upon the whole number of votes cast for governor at the last preceding election of whom not more than one-half shall be residents of any one county.

4. Any proposed amendment or amendments to this constitution, agreed to by a majority of the members elected to each of the two houses of the legislature, shall be entered on their journals with the yeas and nays taken thereon, and be submitted to the people by the secretary of state upon petition filed with him signed by five per cent. of the qualified electors, calculated upon the whole number of votes cast for governor at the last preceding election of whom not more than one-half shall be residents of any one county.

5. The legislature shall provide for furnishing the electors the text of all amendments to the constitution to be voted upon by the people.

6. If the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of the constitution, from and after the election at which approved; provided, that if more than one amendment be submitted they shall be submitted in such manner that the people may vote for or against such amendments separately.

7. If proposed amendments to the constitution which conflict with each other in any of their essential provisions are submitted at the same election, only the proposed amendment receiving the highest number of votes shall become a part of the constitution.

## TAFT ON THE REFERENDUM.

So frequently have requests been made for what President Taft said on the Referendum in his speech delivered in Columbus, Ohio, the evening of August 19, 1907, that the extract is here reproduced in full, as it appeared in the *Ohio State Journal* of the following morning:

"The representative government that has served us well for 130 years has not been for Mr. Bryan sufficiently expressive of the will of the people. Election of senators by the people is not enough for him. We must call upon fourteen million electors to legislate directly. Could any more burdensome or inefficient method be devised than this? I believe that a Referendum under certain conditions and limitations in the sub-divisions of a state on certain issues may be helpful and useful, but as applied to our national government it is entirely impracticable. If it is difficult for the people to use proper judgment in the concrete question of the personality of the representatives they are to select to carry on their national government, as Mr. Bryan's theory assumes, how much more difficult for them to give sufficient attention to the settlement of the many questions of policy and procedure in complicated statutes which the people have always been willing to leave to the decision of their representatives, skilled in the science of legislation, whose general views of the main political issues of the day are well understood. Think of the possibility of securing a vote of fourteen millions of electors on the four thousand items of a tariff bill. The opportunity to retire a representative who fails to be truly representative is all that the people wish and need to enforce their will."

## WILLIAM JENNINGS BRYAN.

From speech before Tennessee Legislature, Feb. 18, 1911.

But the people now know what the Initiative and Referendum means. The people now understand that by Initiative we mean the people must be permitted to initiate legislation, to start it, to bring the proposition before the voters. Under the Initiative a petition can be filed and when the percentage of voters required by law have signed the petition asking for the submission of a definite proposition then that proposition must be submitted and the people vote upon it, and if the majority vote for it, it becomes a law the same as if the legislature had passed it as a statute.

The Referendum means that when the legislature passes a law, a certain percentage of voters can, by petition, ask for the privilege of voting on that law, and if that percentage signs the petition, then the question comes before the people, shall this law be a law, or shall the people veto it; and, if, when the question is submitted, the majority of

the people favor the law, it stands, if a majority oppose it, it falls. That is a very brief statement of the proposition known as the Initiative and Referendum, and upon what does it rest?

That the government is a thing made for the people by themselves; that they have a right to make it what they want; that they have a right to suggest laws as they please; and, that when they appoint a man to represent them and that man refuses to pass laws they want passed, they have the right to pass them themselves and when they elect men and they pass laws the people don't want passed, the people have the right to veto those laws.

There is but one argument against the Initiative and Referendum, that the people lack either the intelligence or the capacity for self-government. There is no other objection, and I congratulate your governor on having presented this as a reform to which he attached his name. I believe in the Initiative and Referendum, I believe in them because they will not only protect the rights of the people, but they will strengthen the representatives of the people.

The temptations that throng about a capitol are great temptations, greater even than the representative thinks when he comes, greater than his constituents understand when they send him, and many a young man has gone to his state capitol with a high purpose and a firm desire to be a faithful representative, but has yielded to these temptations that are greater than his strength will withstand, and he then goes back disgraced in his own opinion if not in the opinion of his people.

The Initiative and Referendum strengthens the representative while it protects his constituents.

### **THEODORE ROOSEVELT.**

**From speech in Phoenix, Arizona, March 20, 1911.**

The principles of the Initiative and Referendum may or may not be adapted to the needs of a given state under given conditions; I believe they are useful in some communities and not in others.

In any event, a measure fraught with such possibility of mischief as the recall of judges, as you have provided for it, should not be adopted until, by actual experiment, you are driven to it as a necessary but regrettable method of doing away with some even worse evil.

The Initiative, Referendum and Recall are not in themselves ends of value; they are simply means for the achievement of an end. value; they are simply means for the achievement of an end.

**From "Nationalism and Popular Rule," Outlook, January 21, 1911.**

There remain the Initiative and Referendum. As regards both of these, I think that the anticipations of their adherents and the fears of their opponents are equally exaggerated. The value of each depends

mainly upon the way it is applied and upon the extent and complexity of the governmental unit to which it is allied. Every one is agreed that there must be a popular Referendum on such a fundamental matter as a constitutional change, and in New York State we already have what is really a Referendum on various other propositions by which the state or one of its local subdivisions passes upon the propriety of action which implies the spending of money, permission to establish a trolley line system or something of the kind. Moreover, where popular interest is sufficiently keen, as it has been in the case of certain amendments to the national constitution at various times in the past, we see what is practically the Initiative under another name. I believe that it would be a good thing to have the principle of the Initiative and Referendum applied in most of our states, always provided that it be so safeguarded as to prevent its being used either wantonly or in a spirit of levity. In other words, if the legislature fails to act one way or the other on some bill as to which there is a genuine popular demand, then there should unquestionably be power in the people through the Initiative to compel such action. Similarly, on any bill important enough to arouse genuine public interest there should be power for the people to insist upon the bill being referred to popular vote, so that the constituents may authoritatively determine whether or not their representatives have misrepresented them. But if it is rendered too easy to invoke either process, the result can only be mischievous.

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The movement for direct popular government in Oregon was in part the inevitable consequence of the gross betrayal of their trust by various representatives of Oregon in the national and state legislatures, and by the men put in appointive office through the exertions of their representatives. Moreover, the opponents, and, for the matter of that, the adherents likewise, of the proposed change, when they speak, whether in praise or in blame, of its radicalism, would do well to remember that in one of the oldest and most conservative sections of the country there has existed throughout our national life, and now exists, a form of local self-government much more radical where it applies than even the Initiative and Referendum. I refer to the New England town meeting, at which all purely town matters are decided without appeal by the vote of the townspeople in meeting assembled. In no other part of the world, save in two or three cantons of Switzerland, and perhaps in certain districts of Norway, is there any form of government so absolutely democratic, so absolutely popular, as the New England town meeting. The Initiative and Referendum represent merely the next stage. The town meeting has been proved to work admirably as regards certain governmental units where the citizens are of a certain type. The Initiative and Referendum have been shown to work well as regards certain larger

constituencies of a different type. The men living in states where the town meeting has flourished for centuries should be the last to feel that the Initiative and Referendum are in and of themselves revolutionary propositions.

On the other hand, the advocates of the Initiative and Referendum should, in their turn, remember that those measures are in themselves merely means and not ends; that their success or failure is to be determined not on a *priori* reasoning but by actually testing how they work under varying conditions; and, above all, that it is foolish to treat these or any other devices for obtaining good government and popular rule as justifying sweeping condemnation of all men and communities where other governmental methods are preferred. There is probably no class of men who ought to study history as carefully as reformers—except reactionaries, for whom the need is even greater.

**From Speech Before Constitutional Convention of Ohio, February 21, 1912.**

I believe in the Initiative and the Referendum, which should be used not to destroy representative government, but to correct it whenever it becomes misrepresentative. Here again I am concerned not with theories but with actual facts. If in any state the people are themselves satisfied with their present representative system, then it is, of course, their right to keep that system unchanged; and it is nobody's business but theirs. But in actual practice it has been found in very many states that legislative bodies have not been responsive to the popular will. Therefore I believe that the state should provide for the possibility of direct popular action in order to make good such legislative failure. The power to invoke such direct action, both by Initiative and by Referendum, should be provided in such fashion as to prevent its being wantonly or too frequently used. I do not believe that it should be made the easy or ordinary way of taking action. In the great majority of cases it is far better that action on legislative matters should be taken by those specially delegated to perform the task; in other words, that the work should be done by the experts chosen to perform it. But where the men thus delegated fail to perform their duty, then it should be in the power of the people themselves to perform the duty. In a recent speech, Governor McGovern of Wisconsin, \* has described the plan which has been there adopted. Under this plan the effort to obtain the law is first to be made through the legislature, the bill being pushed as far as it will go; so that the details of the proposed measure may be threshed over in actual legislative debate. This gives opportunity to perfect it in form and invites public scrutiny. Then, if the legislature fails to enact it, it can be enacted by the people on their own initiative, taken at least four months before election. Moreover, where possible,

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\* See page 101.

the question actually to be voted on by the people should be made as simple as possible. In short, I believe that the Initiative and Referendum should be used, not as substitutes for representative government, but as methods of making such government really representative. Action by the Initiative or Referendum ought not to be the normal way of legislation; but the power to take it should be provided in the constitution, so that if the representatives fail truly to represent the people on some matter of sufficient importance to rouse popular interest, then the people shall have in their hands the facilities to make good the failure. And I urge you not to try to put constitutional fetters on the legislature, as so many constitution-makers have recently done. Such action on your part would invite the courts to render nugatory every legislative act to better social conditions. Give the legislature an entirely free hand; and then provide by the Initiative and Referendum that the people shall have power to reverse or supplement the work of the legislature should it ever become necessary.

### **GOVERNOR HARMON'S VIEW OF THE INITIATIVE AND REFERENDUM.**

**From address before Constitutional Convention of Ohio, Feb. 8, 1912.**

I always keep an open mind for all proposals to make our government more efficient, economical and responsive to public needs. And I believe that within the safeguards of personal rights and other limitations they themselves impose by a constitution prepared and adopted with deliberate care, the people's will is the supreme law which it should be made as easy as possible to declare and enforce.

But I am not convinced that the Initiative and Referendum, applied generally to subjects of legislation, would be an improvement on our system of government by representatives, which, while it has shortcomings like all human institutions, I do not believe has proved a failure.

These shortcomings are doubtless the chief cause of the continued advocacy of direct legislation, and if it could be confined to their correction or prevention there would be less ground for doubt about the desirability of it. But it seems to be conceded that such limitation is not practicable.

The measure is confessedly an experiment, and as several States have recently undertaken it, my attitude is like that of "the man from Missouri". I have always found it wiser to profit by the experience of others, in matters of doubt, when I could, rather than by my own. And no one can justly claim that this new departure in government has yet passed the experimental stage in other States, while, even if it had, none of them have so large or so diversified a population as Ohio, or such a great variety of interests.



A somewhat wide experience, as well as observation, has taught me that government, in all its branches, is a complicated and difficult business which requires careful study and close attention, besides the consideration of many things in the doing of each one. And my doubt is whether these essentials can or would be supplied by a large, busy and widely separated body of electors acting directly in matters of general legislation.

It is a safe rule to judge others by one's self, and I gravely question whether, as a private citizen immersed in business and personal affairs. I should be able, however willing, to devote to a proposed measure, unless it were a very simple one involving no details, the study of its own provisions and of their effect on other laws or subjects, which is required to qualify one to take part in the important work of legislating for a great commonwealth. My action would lack the sanction of an oath to perform my duty to the best of my ability. I am certain I would not and could not give it the care and attention I now give to my part in the making of our laws. And I do not see how merely multiplying the number of private citizens in the like situation, without opportunity for conference or discussion with each other, could better the result.

I believe the work of legislation can be properly done only by bodies small enough for each member to get the advantage of conference, debate and deliberation, with the concurrence of both required and absolute rules to prevent hasty action by either, as well as final approval by another and independent actor in the proceedings. This is one of the main features which made our government "a broad and liberal democracy" but "compatible with ingrained respect for parliamentary methods and constitutional checks," as it has been well described.

Of course, if these agencies all prove incapable or corrupt, if for any reason they betray the confidence reposed in them by the people and fall under the control of special interests which seek advantages contrary to common right and injurious to the public, then the plan will miscarry. And this seems to have happened with alarming frequency in some of the States. But whatever the case may be or may have been elsewhere, Ohio has furnished no such example, even before the executive was given a voice in the making of her laws. I do not mean that we have had no bad legislation and no unworthy representatives; but these have been too rare to discredit the magnificent history of more than a hundred years. Our citizens have never enforced higher standards in the public service than they are doing now. So some other reason must be found to justify a change in our system which would throw off the checks and precautions against hasty and unwise legislation, which have been so carefully provided, and make the stump the seat of legislation.

However, I believe that, in actual practice, this change would not fully justify either the fears of its opponents or the hopes of its advocates. If it will work well anywhere it ought to do so in our municipalities. So, to add to discussion of it the argument of a test by our own citizens, I approved a bill at the last session to authorize it in them though I am told it has not yet been resorted to anywhere.

For myself, I think we should await the result of a fair trial in our cities and villages before making State wide the operation of so radical a change in our methods. But if the convention should decide to submit the question to the people, as I understand many members wish to do, it should be done separately. The provision should be guarded so as to prevent its being lightly invoked. The very heavy expense of special elections should be avoided, except in cases of unusually widespread and general demand. And, in view of its experimental character, resubmission to the people should be provided for, at the end of a reasonable period, without the formalities and delay generally required for amendments of the constitution.

### **SENATOR ROBERT L. OWEN IN FAVOR OF THE INITIATIVE AND REFERENDUM.**

**From speech delivered in the Senate, March 4, 1911.**

#### **REPRESENTATIVE GOVERNMENT MADE SURE.**

I, of course, have frequently heard the thoughtless argument that the Initiative and Referendum would do away with representative government and undermine the foundation of the temple. The truth is that the Initiative and Referendum makes representative government secure. It puts an end to the undermining of the foundations of the temple by the thieves that are undermining the temple by honeycombing these foundations with gross corruption, bribery, and graft.

The Initiative and Referendum not only does not destroy representative government, it makes representative government really representative.

It is representative government we want, Mr. President.

It is representative government we earnestly desire, Mr. President.

It is representative government that we are resolutely determined to have.

Mr. President, we will not be denied in this demand by sophistry or by evasion.

The Initiative and Referendum will compel the representatives in the legislature to write the laws necessary for honest government under penalty of having the laws written over the heads of the representatives if they fail to perform their duty. The Initiative enables the people to make good any omissions, as the Referendum enables them to make good

any sins of commission; for, with the Referendum, if the representative pass an act containing graft or fraud, if the representative pass an act giving away a franchise of enormous value to a corrupt corporation without consideration, the Referendum can veto it and will veto it; but, what is more important, the representative, knowing that his action can be vetoed, is prevented by that fact from exposing himself to public condemnation. The corporation will not buy from a man or legislature which can not deliver. It prevents the legislator from passing acts containing graft for fear of the people, and the representative, in like manner, is led to pass the acts which the people desire because he knows that if he fails to do it the people will pass the acts they want in spite of him by the Initiative. It will enforce a great canon of the Lord's prayer. It will lead the representative not into temptation and will deliver him from evil.

Therefore the representative is made truly a representative by this system, which makes him responsive to the will of the people, which makes him write the laws the people want, and prevents him writing laws the people do not want; and if he fails, then the people, by the Initiative, can write the laws they do want, and by the Referendum they can veto the laws they do not want—and in this simple, common-sense way the people can rule.

#### DIRECT LEGISLATION WILL END CORRUPT PRACTICES.

It is by this process that the people of the various States of the Union can establish honest government in spite of the corrupt machine, and they can not do it in any other way. The corrupt machine is the agency through which corrupt special interests have obtained control of government in the United States, and have gone into the governing business for private profit.

The people of Arizona understand this perfectly well, and they are determined to protect their government against the corrupt processes that have scandalized and now dominate so many States of the Union, and which so strongly influence Congress itself. I could name many of these States, Mr. President, if the invidious distinction of mentioning them by name should not seem, perhaps, a stigma; but they are well known—certainly within their own borders—and need no direct mention. It is true that some of the States have honest government and do not need the agency of the Initiative and Referendum for this purpose, but most of the States do need it, and all of the States are going to have it for the reason that this method comprises the most stable and conservative form of government. If the corruption of government could go on unabated and uncorrected, it would lead inevitably to a revolution, to an overthrow of property rights, and would render the Government unstable and the tenure of property insecure, just as it

did in Rome where it overthrew the greatest government the world had known up to that time.

It would have overthrown Great Britain utterly, except that that wonderful race of Anglo-Saxons discovered the danger to the stability of property and made haste to end corruption by a thorough-going corrupt-practices act that is a model for the world.

I have been amazed to hear the Senator from Idaho refer to the Initiative and Referendum as "insane," although it will be remembered that the honorable Senator denounced his own legislature as insane on the question of voting favorably for submitting a constitutional amendment for the election of Senators by the direct vote of the people.

I have been painfully surprised at the honored Senator from Texas [Mr. BAILEY] expressing hostility to this doctrine of fundamental democracy, for the Initiative and Referendum is, in concrete form, the embodiment of government of the people, by the people, and for the people.

### **E. P. OBERHOLTZER.**

#### **From his Referendum in America, 1911.**

The quality of mind of the agitator for direct legislation may be understood by a reference to the pages of his periodical publications. That the junta of lobbyists who are imposing this form of government upon the country are restless changers without respect for the authority of history is made very plain. Their ultimate object is something far beyond the Initiative and Referendum. These are but the means to an end—the thorough renovation of society. A perusal of the Oregon pamphlets confirms this view. The times have favored the agitation. Plausibly advanced as the popular check upon political corruption and corporate greed, which are at the moment so much feared and disliked, the machinery of the Initiative, the Referendum and the Recall are to be used, if possible, for socialistic purposes much closer to the heart of their inventors. The provisions in the state constitution and in the commission government laws follow definite formulæ. They are shaped by common smiths in a common shop, outside of the legislatures which are asked to pass the acts, and always there is the one defense that it is government by the people. This has been the stalking-horse of democracy since the beginning. "You do not trust the people, in whom even by your own definition sovereignty resides," is the retort which the objector always receives. It is always the people—the people who have brought on three of the wars in which the nation can feel the least pride, who have repeatedly attacked proper money systems, who in ignorance and on impulse have wrecked and ruined, praised, canonized and created measures and men—a series of mistakes as long as history itself. The people

who acclaim a captain who sinks a hulk in a Cuban harbor to block the way of an enemy's warships, a commodore who sweeps a decrepit fleet from the China seas, an explorer who returns to tell of his achievements at the north pole, after a while tire of their heroes. What they would do one day they will often repent of the next, for which reason a government of checks and balances, of reversal and veto was devised, recommended and adopted. It was not intended that the process should be simple. Instead virtue was found in its very complexity. The wheels were not to run too smoothly and rapidly in order to allow time for reflection, discussion and the exercise of judgment. That there would be failures now and then on the side of caution and conservatism was anticipated. It would be better to err in this than in the other way. It is better in such a business to do too little than too much. We did not wish the people to come together in mass-meeting to make and execute and interpret their own laws. The principle was rejected. It was determined that good results were not to be expected from this kind of an unregulated expression of public opinion. Agencies must be established. The people, if they would, must choose the "wisest and best" among their number to represent them, and to perform necessary public duties under such rules and regulations as might be established. Another course, to any one familiar with the subject, would seem to be as impracticable as it is inexpedient. Under this system statesmen appear. Intelligent men are clothed with responsibility and power, and they develop the ability to attract and lead the people. Men like Washington and Lincoln. Daniel Webster, Henry Clay and John C. Calhoun, were not the products of any political system in which bodies of mediocre men with hobbies robbed the legislature of its dignity and authority, and subjected executive, legislative and judicial officers to the fear of recall when they pursued a course distasteful to some fraction of the electorate. Only timid, shambling, ineffective men can come out of a system which strips public office of character and authority and makes it directly subservient to popular whim.

It was argued a few years ago, and those who led the movement obtained a respectful hearing, that the electorate was too large, but, beyond the disfranchisement of the negro in the South, nothing came of the agitation. The alien, it was said, should not be permitted to vote too soon after his arrival in the country. Educational and other tests should be established to make the suffrage a thing of more value. Those who had the right to vote should be compelled to go to the polls. The apathetic were the source of our political tribulations. The bosses were buying and herding the ignorant and the corruptible, who ought not to be enfranchised, and were carrying the elections, while men of virtue and talent and utility were neglecting their public duties. This movement seemed to be founded in reason. It commended itself to our intelli-

gence, but all it meant has apparently now been forgotten. If it were revived we should be told that we were "afraid of the people," who can "do no wrong." Their voice is the "voice of God." It is a government "of the people, by the people, for the people." Alien, negro, the poorest, the least informed are not only to vote for our representatives; they are actually to make the laws, administer the laws, adjudicate the meaning of the laws and drive out of place those whom we may succeed in a fortunate hour in electing to perform these duties. All this may be "republican" and "democratic;" fortunately, however, it is un-American, un-English. It is in conflict with the spirit and traditions of our political system, as will soon be perceived by growing numbers of men. While the people are subject to sudden impulse and at times commit the most serious mistakes, they have seldom erred through years in the long run on the question of great fundamental principles. When they come to understand the purposes of these "reforms," and can see beyond the present to the end, it is safe to predict that there will be a readjustment of opinion as radical as the movement by which our standards have been so ruthlessly deranged.

### **CHARLES A. BEARD.**

#### **From His Documents on the State-Wide Initiative, Referendum and Recall.**

What are the requirements of good legislation? They are that any particular bill should be timely, technically drafted so as to secure the will of the electorate, and properly adjusted to the social and economic conditions—the habits and aptitudes of the particular community to which it is applied. In general, a law should be the expression of the matured and deliberate will of a clearly ascertained majority of the voters. But everybody knows that this is an ideal rather than a real condition of affairs. The actual process in the adoption of any important reform begins with a few interested and enlightened persons who draft the project of law; it is then more or less intelligently accepted by a small group of the voters in the state; and then it finally secures the legislative majority necessary to its enactment, largely by the tacit consent of those who know little or nothing about it. If, in real practice we should demand the deliberate and carefully formed will of a majority of all the voters of a commonwealth or their representatives on every important measure, progressive and enlightened legislation would be difficult indeed to secure. All that we can ask of a law, in a democracy, in addition to the qualities of form and adaptation to the social medium mentioned above, is that it shall be reasonably acceptable to that vague thing which we call public opinion.

Now, is there anything inherent in the plan of initiating legislation

by groups of private parties which precludes satisfactory expertness in the drafting of measures, or at all events an expertness equal to that commonly secured in the average state legislature? Undoubtedly one may imagine a group of ignoramuses drawing together and drafting a legal monstrosity; but in view of the fact that, under the Initiative and Referendum, private persons do not initiate bills unless they are deeply interested in the success of their particular measures, there is every reason for supposing that they will take proper precautions to employ that legal talent which is necessary to secure technical formality. Of course, the instance of a measure initiated in Oregon without an enacting clause is often cited as an evidence of the inherent stupidity of popular initiators; but one swallow does not make a summer, neither does a considerable group of them, and if bad legislation on its technical side were an evidence of stupidity, representative government would have to stand with a shamed face at the bar of reason. It seems fair to assume that under a system of direct legislation where the initiators are bound to run the gantlet of opposition and criticism in the public discussion of their particular measures, special precautions will be taken to secure a satisfactory legal form. All that talent and enterprise which is now employed extra-legally in the drafting of bills for legislatures may be drawn upon in the drafting of bills for popular initiation. No doubt mistakes will be made and have been made under a system of popular initiative, and several ludicrous blunders have already been called to public attention. But the fact remains that the technical side of legislation may be handled in practice quite as well under popular initiation as under legislative initiation.

It must be acknowledged, however, that were the theory of the representative system—searching debate and illuminating discussion—actually carried out in practice, it would be difficult to imagine a system so well adapted to technical perfection in law-making. But in the world as one finds it, there seems to be as much hope for technically acceptable legislation from groups of public-spirited private citizens as from the committee rooms of state legislatures where two or three men—generally mediocre in character—usually do most of the work that is done there, and assume little or no responsibility for their measures.

Admitting as one must, nevertheless, that there are grave dangers lurking in the possibility of initiation by irresponsible groups of private parties, the case for the Initiative need not be given up as hopeless. Methods may be devised to assure more attention to the drafting of bills referred on popular petition. The publication of the names of those who actually drafted any bill referred by the Initiative might be required and reliable sponsors secured. Or again, a Wisconsin plan for confining the Initiative entirely to bills actually introduced in the legis-

lature might help to obviate some of the objections laid against the indiscriminate drafting of laws.

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It is not surprising that, in a spectacular fight over personalities, on the results of which depends the distribution of the spoils of office and the revenues accruing from the sale of political privileges, an extraordinarily large vote is polled. Instead of being discouraged at the smallness of the vote cast on more or less remote questions of constitutional law, the friends of democracy really should be encouraged at the surprisingly large number of instances in which sixty and seventy and eighty per cent of the voters take advantage of their opportunity to express an opinion on questions referred to them for consideration.

There is, moreover, no magic significance about having one more than one-half of the voters in favor of a legislative proposition. Many of those who oppose the Initiative and Referendum on the ground that it may permit legislation by a minority are not celebrated as advocates of the principle of simple majority rule. In too many cases they proclaim the doctrine of majority rule when criticising the Initiative and referendum, but overlook the principle when they come to reviewing election of United States senators by state legislatures, judicial control of legislation, and the executive veto.

Any one who is prayerfully solicitous for a majority vote in favor of every measure enacted into law will have to do some searching of his heart when examining the vote in our state legislatures. What assurance is there that any particular measure passed by a state legislature would, if submitted to popular vote, receive the approval of more than fifteen or twenty per cent of the electorate? Every one at all familiar with the operations of American legislatures is too painfully aware of the ways in which measures are rushed through under the party whip, or passed as the result of group trading in which members vote for measures to which they are personally opposed and which are not supported by their constituents, in order to receive support from the other side for some particular measures of their own.

Surely it needs no lengthy demonstration to show that there is nothing sacred about percentages in elections. Nevertheless, legislation by small minorities is, of course, highly undesirable, and if a system of Initiative and Referendum necessarily made possible such legislation, it would be open to grave objections. In point of fact, however, it is possible to establish in connection with the Initiative and Referendum a safeguard against legislation by small majorities. For example, in Washington the constitutional amendment to be submitted to the voters in 1912 provides that "any measure initiated by the people or referred to the people as herein provided shall take effect and become the law if it is approved by a majority of the votes cast thereon; provided that the vote cast upon



such question or measure shall equal one-third of the total vote cast at such election and not otherwise." Obviously this proportion may be increased, if it is thought necessary, in order to secure a still wider expression of popular opinion; but in view of the practice of submitting unimportant and special questions, upon which the vote must obviously be small, it is undesirable to make too high the percentage necessary to carry an amendment into effect.

The ingenuity of the advocates of the Initiative and Referendum is by no means exhausted in the creation of rules as to the proportion of the votes necessary to enact a measure into law. Believing that the ideal of American government is the creation of a great democratic brotherhood on a high plane of intelligent co-operation, they prefer rather to establish a scheme of popular education in connection with the Initiative and Referendum in Oregon, for example, the most noteworthy feature of the system is the recent statute providing for the publication and distribution of arguments for and against the propositions submitted to the decision of the voters. Under this law the supporters and opponents of any particular measure may prepare their arguments at length; these arguments are printed by the state (at the expense of the private parties concerned), together with the measures to be referred to the voters; and a copy is sent to every voter in the commonwealth. It is contended by the friends of this system that it has an immense educational value in arousing the interest of the people, in securing the consideration of each measure on its merits, and in turning the search-light of publicity and discussion upon all the important political issues in the state. In 1910 the measures referred to the voters and the arguments favoring and opposing certain of them constituted a booklet of two hundred eight pages, a copy of which was sent by the secretary of state to every voter.

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At all events, in view of the dire prophecies which have been made in times past concerning proposals which have proved advantageous, or at least harmless, "hard-minded persons," to use Professor James' phrase, will not be disposed to view with distress the introduction of these new devices—the Initiative, Referendum and Recall. That they will go as far toward solving our political problems as the simplification of representative government and the introduction of centralized responsibility on the part of public officials is certainly open to serious question. That representative government, where responsibility and deliberation are secured, is the best instrument for legislative work yet devised is scarcely open to argument. Nevertheless, the Initiative and Referendum, especially in important matters, have undoubtedly found a permanent place among our institutions.

## INITIATIVE AND REFERENDUM VOTES IN OKLAHOMA.

	1910.	Yes.	No.
Tax distribution amendment.....	101,636	48,136	
Railroad amendment .....	83,169	55,175	
New Jerusalem plan.....	84,336	116,890	
Woman suffrage amendment.....	88,808	117,796	
Local option amendment.....	105,041	126,118	
Election law .....	80,146	106,459	

(The total vote for governor was ....245,452.)

## INITIATIVE AND REFERENDUM VOTES IN SOUTH DAKOTA.

	1908.	Yes.	No.
Local option liquor law.....	39,075	41,405	
Divorce law .....	60,211	38,794	
Quail law .....	65,340	32,274	
Sunday law .....	48,378	48,006	

(The total vote for governor was ....118,904.)

	1910.	Yes.	No.
Renting lands .....	48,152	44,220	
Salary, attorney-general .....	35,932	52,397	
Equal suffrage .....	35,289	57,709	
Debt limitations .....	32,612	52,233	
Revenue amendment .....	29,830	52,043	
New institutions .....	36,123	47,625	
County option .....	42,416	55,372	
Electric headlights on locomotives.....	37,914	48,938	
"Czar" law .....	32,160	52,159	
Embalmers law .....	34,560	49,546	
Congressional districts .....	26,918	47,893	
Militia .....	17,852	57,440	

(The total vote for governor was ..105,801.)

## INITIATIVE AND REFERENDUM IN OREGON.

Oregon was not the first to adopt the Initiative and Referendum, but at mention of this new form of law-making our thoughts naturally turn to this state, for in no other has the principle of direct legislation been so extensively applied. Whether or not an experience of seven years has established the superiority of the new system over a purely republican form of government, in which all authority to make laws is delegated to the general assembly, is a question, of course, that will be variously answered by the friends and opponents of the Initiative and Referendum. It is generally admitted, however, that to date the

people of Oregon are satisfied with the new order, for there is no serious suggestion of a movement to change it.

It is hardly to be expected that a change so fundamental should not arouse opposition, even in Oregon. *The Oregonian*, one of the leading papers of the state, at first favored the system, but later opposed it. The following editorials indicate the line of its dissent:

### Referendum in Oregon.

That both Initiative and Referendum, within proper limits might be useful, was the belief of large numbers, who joined in voting for their adoption, yet who did not foresee that they would fall into the hands of faddists, sophisters, schemers, doctrinaires of all sorts, who would appeal to them against representative government and methods of ordinary legislation. They were adopted under the impression that they were to be the medicine of the constitution, cautiously administered when occasion might require; not its daily bread.

Of course they are revolutionary. They violate the very principles upon which and for which organized society forms a constitution. Yet they are good, if there is sense, intelligence, virtue enough in a community to use them judiciously. But when there is not they make trouble; they upset society; they put into the hands of revolutionary dreamers weapons of a most dangerous kind.

They encourage every group of hobbyists, every lot of people burning with whimsical notions, to propose initiative measures, or to interpose objections through Referendum appeals. They have the effect, practically, of abolishing constitution and laws altogether; or at least of keeping people who would defend the stability and orderly progress of society, always on guard, always under arms, for their defense. All this is bringing Oregon under observation from every part of the United States. And not to her credit, either.

The Eugene *Register* reprints from the *Minneapolis Journal* an article which comments on the "hold up," by the Referendum, of the appropriation for the University of Oregon with the statement that the said article has been sent as a clipping to residents of Eugene from their friends in Minnesota and elsewhere, accompanied by a sarcastic invitation to "move back into the United States." "These," the Eugene paper remarks, "are the jolts Oregon is getting from all over the Union, especially from those states that would stop emigration from their localities to Oregon. The Referendum on the University appropriation is the best and most effective club other states can wield in substantiation of their claim that Oregon is non-progressive and a country to stay away from."

The whole of this modern scheme of setting aside constitution and laws, and of forcing legislation without debate or opportunity of amendment, turns out badly because it gives the cranks of the country an

opportunity which they have not self restraint enough to forego. Careless people, or people who don't like to be bothered with importunity, sign the petitions to get rid of the solicitors; and when the election comes on the proposal is likely to be neglected by the body of voters, and carried by the votes of the comparatively few enthusiasts who favor it, reinforced by the votes of those who may mark their ballots ignorantly or mechanically without understanding the matter at all.

Quite in accord with the whole scheme is the proposal to set aside the constitution of the United States by Statement No. 1. The best refutation of this folly yet presented appeared in a letter from Mr. J. K. Philips. "It is asserted," says this letter, "that there is an effort afoot to rob the people of the right to elect United States senators. Did the people ever have such a right? Never. It follows that they cannot be robbed of it. Do they desire to have such right? They may obtain it in the constitutional manner. Is there a reason why United States senators shall be chosen by a legislature and representatives by the people? The federal constitution gives the reason." This leaves not a word to be said.

Tuesday, February 18, 1908.

### **Of Representative Government.**

It is just as well, indeed it is necessary, that the people of Oregon should be candid with themselves about the change of the constitution of the state from the representative to the Initiative and Referendum system. Were it to be offered again it would not carry. Impatience with abuse caused it to carry when it did. But those abuses could have been corrected by insistence on the character of representatives, under the old system. By the new system a new sort of abuses or evils has been introduced, with no present means of correction.

It was not intended that representative government should be abolished by the new system; but it has been abolished by it. Any group of persons, from the cave of Adullam, or other groups of persons of ill-arranged intellects can propose Initiative measures or call the Referendum; and there is danger always that the crudest measures may pass into law, through the inattention of the voters, or that proper legislative measures may be turned down through the Referendum. The situation is the crank's paradise.

Theoretically the system is plausible, and seems quite right. But it doesn't prove so in fact. It opens a door to every description of irrational legislation and obstruction. It presupposes a forbearance, balance, judgment and wisdom not sufficiently established yet, anywhere. Perhaps our ancestors, who committed themselves to representative government, and who supposed they were establishing it for the benefit of their posterity, were not so great fools, after all.

Now, however, we are obliged to be vigilant and active, in every election, to keep crazy Initiative measures like the new scheme of taxation down; and to defeat such calls of Referendum as that for starvation of the leading educational institutions of the state. The system does not work out in action and practice, as those who voted for it supposed it would. It could not have been supposed there would be so many groups of persons devoted to strange and multifarious crazes. Yet there remains a sane majority. That majority would not now, after it has gained this knowledge, vote for a system which proves to be the negation of representative and deliberate government.

Against the primary law, which is part of the new system, there is less objection. Such objection as may be made to it rests on the fact that it too, rejects the representative principle, and presents as party nominees men who do not represent their party, but merest fractions or factions or fragments of it. This, however, may be borne, and perhaps may correct itself in time. But when it presumes to foist upon a law a statement or pledge, to be taken by a candidate for the legislature, that he will support for the highest political office, in a contingency likely to arise, a man of the opposite political party, it goes to the extreme of irrationality and absurdity. The man of good sense spits at the whole scheme.

Representative government, after all, is a pretty good thing. Oregon will yet return to it. Advocates and supporters of representative government, these thousand years, have not been such fools as our new statesmanship may assert. A hoodoo of spiritism founded by an adventurer upon the wreck of the estate of a pioneer family is not going to last in Oregon.

Tuesday, March 10, 1908.

### VIEWS OF CHARLES H. CAREY, of the Portland, Ore. Bar.

In a carefully prepared address before the Oregon Bar Association, November 18, 1908, Charles H. Carey questions the salutary tendency of direct legislation in his state. Among other things, he says:

"It is quite apparent, however, that in our own time, and especially within the past five years, a most remarkable turn of social and political tide has set in. What the extent of the metamorphosis will be, our generation, perhaps our century, will hardly be able to answer. It is clear that in the United States there is a decided tendency toward a popularization of political power, especially the law making power. This tendency is observable not alone in our own state, which in some respects has blazed the way for others to follow, but elsewhere throughout the Union. And concurrently with this movement, and it may be to some extent because of it, there is a marked growth of interest in the doctrines

of socialism and philosophic anarchism. The spirit of revolution is abroad, and it will be for the future historian a fascinating study to discover the causes, and to examine the scope and consequences of the impulse. The movement is evidently not confined to the United States. The fact is that there is a social ferment in various European countries, not less interesting and not less profound in depth and influence upon political institutions than in our own country.

"In Oregon, extraordinary constitutional changes have already been adopted. It is more than likely, in view of what has been, that further radical changes will follow. I am not here to denounce at wholesale such changes as ill-advised, or worse. Be it my duty, rather, to point out some considerations that may have a bearing on future conduct.

"We have approached the subject of our thesis indirectly. My aim is to show that with the recent modifications of the Oregon constitution, the people have taken a step that has brought new and serious responsibilities of citizenship. Whether I have succeeded in demonstrating that the step was not forced by new conditions of political, commercial or social life, and is an experiment ventured upon against the teaching of history, is of no moment. But the grave question is, how will the people meet the new demands made upon them? In view of the fact that the representative system in the republic has been on trial but a century and a quarter, and that the principle now engrafted upon the Oregon constitution, if applied to the ultimate, is utterly subversive of this essential feature of the American plan, the subject is one of deep concern.

In 1857, Macaulay wrote to an American correspondent:

'I have long been convinced that institutions purely democratic must, sooner or later, destroy liberty or civilization, or both. In Europe, where the population is dense, the effect of such institutions would be almost instantaneous. What happened lately in France is an example. \* \* \* I have not the smallest doubt that if we had a purely democratic government here the effect would be the same. Either the poor would plunder the rich, and civilization would perish, or order and prosperity would be saved by a strong military government, and liberty would perish. You may think that your country enjoys an exemption from these evils. I will frankly own to you that I am of a very different opinion. Your fate I believe to be certain, though it is deferred by a physical cause. As long as you have a boundless extent of fertile and unoccupied land, your laboring population will be far more at ease than the laboring population of the Old World, and, while that is the case, the Jefferson politics may continue to exist without causing any fatal calamity. But the time will come when New England will be as thickly peopled as old England. Wages will be as low, and will fluctuate as much with you as with us. You will have your Manchesters and Birminghams, and in those Manchesters and Birminghams hundreds of thousands of artisans will assuredly be sometimes out of work. Then your institutions will be fairly brought to the test. Distress everywhere makes the laborer mutinous and discontented, and inclines him to listen with eagerness to agitators who tell him that it is a monstrous iniquity

that one man should have a million, while another cannot get a full meal. In bad years there is plenty of grumbling here, and sometimes a little rioting. But it matters little. For here the sufferers are not the rulers. The supreme power is in the hands of a class, numerous indeed, but select; of an educated class; of a class which is, and knows itself to be, deeply interested in the security of property and the maintenance of order. Accordingly, the malcontents are firmly yet gently restrained. The bad time is got over without robbing the wealthy to relieve the indigent. The springs of national prosperity soon begin to flow again, work is plentiful, wages rise, and all is tranquillity and cheerfulness. I have seen England pass three or four times through such critical seasons as I have described. Through such seasons the United States will have to pass in the course of the next century, if not of this. How will you pass through them? I heartily wish you a good deliverance. But my reason and my wishes are at war, and I cannot help foreboding the worst.'

"When the great historian wrote these pessimistic views of our country, Americans had an intense pride in their institutions, a veneration for the constitution that almost amounted to fetish worship, and a confidence in its sufficiency for all purposes (aside from the questions of slavery and state's rights) that has been repeatedly commented upon by such interested foreign observers as De Tocqueville, Von Holst, Munsterberg and Bryce. Mr. Bryce, perhaps the most sympathetic and admiring of the foreign writers that have studied our political institutions, gives as a reason for the probable permanency of the American government, the profound attachment of the people for the constitution. "The federal constitution," he says, "is, to their eyes, an almost sacred thing, an Ark of the Covenant, whereon no man may lay rash hands." \* \*

"When the civil war settled the only apparent cause of discord, and the new amendments were adopted, there seemed to be an universal feeling of confidence in the perpetuity of our republic. It seemed that thereafter, when greater questions would arise for settlement, they would be settled within the constitution. The supreme law of the land was a firm foundation, a standard rule and guide, a safe anchor in any storm.

"It has come to pass in these days that the restraints and limitations of the constitution are no longer respected. On all sides we hear the constitution denounced as antiquated and insufficient for modern needs and when courts apply it as the test they are not infrequently abused in most intemperate language. Now, this may be popular, but before we allow ourselves to drift too far it may be well to see our direction and our danger.

"In Oregon, we now permit the constitution to be amended at will. Formerly, it required not only the majority of all the electors (meaning the majority of the greatest number participating in the election) to change the constitution, but the proposed amendment was required to be agreed to by a majority of all of the members elected to each house,

in two successive legislative assemblies; now, a bare majority of those voting on the measure at any general election is sufficient to carry the proposition, though but a minority vote on it. Formerly, two years and a half in time, at the least, and the deliberations of four legislative groups, besides the vote of the majority of the people, was the requisite; now, in three months' time, an amendment, perhaps prepared in a secret manner by a single individual, submitted practically without opportunity for debate, certainly without opportunity for pruning, polishing, or enlarging, and generally not even read by the voter, may be adopted by a mere minority of the electors!

"I say that this condition imposes new and grave responsibilities upon our citizens. Let them beware lest in seeking greater flexibility in the fundamental law of the state, they throw away the precious heritage of their liberties. Let them remember that it is by the restrictions of the time-worn instrument that disaster has more than once been averted; and that the stability of our institutions is the safeguard of not property alone, but of liberty, and of life itself.

"But my purpose is served by showing that in this new field there is room for the highest order of statesmanship and patriotism. Timid men, believing that it is not popular to question the all-sufficiency of this new scheme that has been adopted by such substantial majority in Oregon, will hesitate to undertake the duty of formulating and urging modifications and restrictions. But if the Initiative is to be upheld as a part of our plan of government, it should be so limited as to insure against worse evils than those it was designed to correct.

"I will not pursue the subject further, but will summarize what I have said in these propositions:

"1. There is a marked tendency in the United States and in other countries toward enacting sweeping legislation on novel principles.

"2. The evils that apparently give a reason for these changes are not more serious than have been experienced and dealt with before.

"3. The plan of vesting the law making power in the people at large is not new in history, and was expressly rejected in favor of the representative plan by the founders of the United States constitution.

"4. The recent changes in the Oregon constitution, and the facility with which it may now be amended, put new and serious responsibilities upon the electorate.

"5. The initiative system of law making, in the form now under experiment in Oregon, requires the exercise of an extraordinary degree of intelligence, impartiality, and devotion on the part of those having the right of suffrage, and is open to certain criticisms that suggest limitations upon the exercise of the power.

"6. These suggestions embody the following changes in the present plan:—



"(a) Limitation of the number of constitutional amendments, and of initiative measures that may be submitted to vote at any one election.

"(b) Limitation of the subject matter of any such measure to a single proposition, in concrete form.

"(c) Confining the use of the initiative to bills that have been introduced and failed to pass in the legislature, and those that have been vetoed by the governor.

"(d) Modifying the referendum to require a larger number of petitioners."

### VIEWS OF HON. FREDERICK V. HOLMAN, of the Portland, Ore. Bar.

On February 4, 1911, before the Civic Federation of Chicago, Hon. Frederick V. Holman, ex-president of the Oregon Bar Association and regent of the Oregon State University, spoke against the Initiative and Referendum. Following are brief extracts from his address:

"If you in Illinois wish to learn of the Initiative and Referendum by our experience it is now a good time to begin. If the plan is unsatisfactory in Oregon, with its agricultural and village population, largely of Anglo-Saxon ancestry, keenly interested in public affairs and with environments conducive to deliberation, what will be the result in the cosmopolitan city of Chicago, with a steadily increasing proportion of its vast population accepting for the first time large responsibilities in citizenship, and with its hurry and turmoil of economic life anything but favorable to the study and deliberation presupposed by the Initiative and Referendum? Obviously the Oregon plan might succeed in Oregon and be a failure in Illinois. But, if the plan has failed in Oregon in times of quiet and prosperity, what may be your experience of legislation by popular vote in times of unrest, turmoil or mob-violence? Has it failed in Oregon? Let us scrutinize the facts.

\* \* \* \*

"It is a political axiom that the majority should rule, but without prejudice to the rights of the minority. In Oregon under the Initiative the minority rules in many instances and sometimes to the prejudice of the majority, as I shall subsequently show.

\* \* \* \*

"The University of Oregon, of which I have been a regent for several years, has a small endowment which brings in a revenue of about \$25,000 a year. Prior to 1907 it received appropriations at each biennial session of the legislature. In the January, 1905, session the legislature appropriated for the University \$62,500 a year for two years. A Referendum petition was filed within ninety days after the legislature adjourned, and the vote on this Referendum could not be had until June, 1906, the next regular election, nearly a year and a half after the appropriation was made. During that time the moneys of the university became exhausted and it would have been compelled to close its doors had not the professors agreed to continue their duties and to receive no pay

if the Referendum was successful. Fortunately there was a *small majority* in favor of the appropriation.

"Two years later, in the January, 1907, session, the legislature gave the State University a continuing appropriation of \$125,000 a year. Again a Referendum petition was filed against this appropriation, with a similar result. The moneys again were exhausted and the professors again agreed to receive no pay if the Referendum was successful. The vote was taken in June, 1908, nearly a year and a half after the bill passed the legislature. Out of a total vote of 105,298, at that election there was a total vote on the Referendum of 84,650, divided thus:

For the appropriation .....	44,115
Against the appropriation .....	40,535
Majority of votes cast on proposition.....	3,580
Percentage of voters not concerned with fate of the State University.....	19.6

"The vote cast against the appropriations for Oregon State University may have been intelligent but it is not educational, except as an argument against the indiscriminate use of the Referendum.

\* \* \* \*

"Briefly to summarize, then, we find that the so-called 'reserve' power is greatly abused; that measures in overwhelming numbers and many of them loosely drawn are being put upon the ballot; that the percentage of those who do not participate in direct legislation is increasing; that lack of intelligent grasp of many measures is clearly indicated; that legislation is being enacted by minorities to the prejudice of the best interest of the majority; and that the constitution itself is being freely changed with reckless disregard of its purpose and character."

## RESULTS IN OREGON OF DIRECT LEGISLATION.

### STATEMENTS OF PROMINENT MEN OF OREGON FAVORING THE SYSTEM

#### Introductory.

So many letters are received by public men in Oregon from citizens of other states, asking for opinions as to the operation of the Initiative and Referendum in this state, that the undersigned have prepared the following statement to circulate as a general reply. It is intended to be a brief statement of the opinion of the signers of the results accomplished, not as an argument for or against any of the results, and it is especially to be understood that the signers of this letter were by no means united in supporting all, or perhaps any, of the measures adopted or rejected by the people. The adoption of the system of direct legislation in Oregon was not in any sense a class or partisan movement, and the vocation of the signers is given after their names to indicate that the continued support of the system comes from all classes within the state.

Portland, Oregon, December 17, 1910.

Hon. William M. Ladd, head of one of the oldest and greatest private banking houses on the Pacific coast, shortly after the recent election, declared: "I would rather trust the people to vote on the thirty-two, or any other number of important measures, than any legislature," and he was at one time a member of the legislature of Oregon. That the voters of Oregon agree with Mr. Ladd, is proven by nearly thirty-six thousand majority given against the bill to call a constitutional convention, which was generally understood to be a scheme to make a new constitution either abolishing or greatly restricting the Initiative and Referendum.

### **Efficiency the Test of Law-Making System.**

The speedy, peaceful and definite settlement of questions of public policy is the final test of the efficiency of any system of law making. We suggest comparison of the results obtained in the past eight years under the Oregon system of direct legislation by the people, combined with representative law making by the legislature, with the results for the same period in other states under an exclusively representative system of law making by the legislature. Also, we have no doubt that the action of the Oregon legislature during that period has been at least equal in quality to that of any other legislature of the United States.

### **Twenty-Six Important Questions Settled.**

The following twenty-six important questions of public policy appear to have been definitely settled by direct vote of the people of Oregon on sixty-four proposed laws and constitutional amendments, in the last four general elections:

1. That they will not tolerate a return to anything like the convention method of making nominations, but will retain their direct primary system until something better is offered.
2. That they will enforce election by the legislature of that candidate for United States senator in congress who receives the highest number of the people's votes.
3. Complete prohibition of railroad passes for all persons except employees of the railroads.
4. Abolition of the power of city councils to give away public franchises.
5. Abolition of the temptation and opportunity to buy or sell votes in the legislature.
6. That the people of every city or town shall have the power to make and amend their city charters on all local matters at their own pleasure, absolutely free from special acts by the legislature.
7. That they will retain the Initiative and Referendum in law-making.

8. That they will have power to recall any elected public officer from constable to governor, including judges of the courts.

9. That they approve the principle of election of members of the legislature by proportional representation, though they have not yet agreed on the method.

10. That they will provide liberally by taxes for support of higher education in the State University.

11. That they will maintain one efficient Normal School. At the same election they voted to abolish two others created by the legislature some years ago.

12. That corporations having little or no tangible property should pay a gross income and license tax.

13. That the expenditures of any candidate for public office shall be limited to practically one-fourth of one year's salary of the office he seeks, and the state will provide the greater part of the expense for publicity of the merits of candidates and of political parties.

14. That edible fish, especially salmon, shall be conserved in the navigable rivers of the state.

15. That measures of chiefly local interest will be rejected if submitted to the voters of the whole state.

16. Abolition of the convention system of electing delegates to national conventions, establishing direct election of such delegates by the voters of the great parties, and permitting expression by the voters of their choice for their party candidates for president and vice president.

17. That three-fourths of a jury shall be able to render a verdict in all civil cases, and court procedure shall be so simplified as to discourage appeals to the supreme court for delay, and new trials because of technical errors, if substantial justice has been obtained in the lower court.

18. That they do not approve state-wide prohibition of the manufacture and sale of liquor.

19. That they have established and will maintain local option on the liquor question.

20. That they require a reasonable measure of employers' liability for workmen's accidents.

21. They have granted the people of each county power to exempt from all taxation any class or classes of property, subject to any general laws approved by the people of the state.

22. That no citizen shall be tried in a circuit court for crime unless accused by a grand jury.

23. That general elections shall be held in November when most other states vote, instead of in June.

24. That the public credit shall be not used to aid, build or operate private or government railroads.
25. That counties may issue bonds to build permanent highways.
26. That private schemes for looting the public treasury cannot be worked by the Initiative method.

### **Number of Measures Approved and Rejected.**

In obtaining these results at the four general elections since 1902, the people approved twenty-five measures proposed by Initiative petition, three measures enacted by the legislature against which Referendum petitions were filed, and three measures passed and submitted to the people by the legislature; at the same elections the people rejected twenty-three measures proposed by Initiative petitions, three measures enacted by the legislature against which Referendum petitions were filed, and seven measures passed and submitted to the people by the legislature. At the November election this year the people approved nine measures and rejected twenty-three. In the past four elections they have approved two and rejected four measures dealing with local option and the liquor question, and have rejected woman suffrage three times, all proposed by Initiative petition. No special state election has been held to vote on measures. Such an election can be ordered only by the legislative assembly.

### **Number of Organizations.**

The sixty-four measures voted on have been supported or opposed by seventy-one different organizations of citizens. On some measures there was no organized effort for or against, and these were commonly rejected. No measure has been proposed attacking property rights, either of individuals or corporations.

### **Official Pamphlet of Measures and Arguments.**

At the elections of 1908 and 1910, the secretary of state was required to print and mail to every registered voter a pamphlet giving the full text of every measure to be voted on, with arguments submitted and paid for by those supporting and opposing the several measures. There were 128 pages in the pamphlet of 1908 and 208 pages in that of 1910.

### **State Cost of Initiative and Referendum System.**

The total cost to the state for postage, printing, binding and distribution of the pamphlet of thirty-two measures and arguments to every registered voter in the state in 1910 was less than twenty cents for each registered voter. The total cost to the state for the Initiative and Referendum in the past four elections on sixty-four measures was \$47,610.61.

### **Cost to Citizens' Organizations.**

The cost to the seventy-one private organizations for conducting their educational campaigns for and against the measures, spent almost wholly for postage, printing and preparation of measures, is estimated at \$125,000.

### **Number and Percentage of Electors Voting on Measures.**

The smallest vote cast in the eight years was 70,726 on a local measure in 1908, being 63 per cent of the highest vote cast for any officer. The largest vote was 106,215 on state-wide prohibition in 1910, being 90 per cent of the vote cast for governor, which was the highest number of votes cast.

### **Intelligent Voting.**

The vote on measures has been generally intelligent, and the system is of great educational value. The official pamphlet of measures and arguments is carefully studied by a great many of the voters. The returns indicate that most of the electors do not vote on measures that they think they do not understand, though many in that case vote "No." Many of the undersigned who have been members of the legislature, believe that the percentage of voters who carefully read every one of the thirty-two measures submitted at the recent election is fully as high as the percentage of members of the legislature who read every one of the five hundred to eight hundred bills they are called upon to vote for or against in the legislature. In what are called the slum districts and precincts the vote on measures is commonly a comparatively small percentage of the vote for officers. No measure containing a "joker" has yet been approved by the people.

### **Educational Effects.**

The people are giving more and more attention to the measures submitted. Both the teachers and pupils in the public schools are taking an ever-increasing interest in public questions, and in studying the science of government.

### **Political Machines and Bosses.**

Control of the government by party bosses and political machines is completely abolished. The power of undesirable political party organizations and the influence of partisan feeling with the voters grows less with each succeeding campaign.

### **Material Development of the State.**

Population and wealth have flowed into Oregon during the past five years faster than ever before.

Careful observers agree that the material development of the state

has been much greater during the past five years than in the preceding twenty years. The following is taken from issues of the Portland papers after this letter was written, but before it was printed:

"1910 SHOWS GREAT DEVELOPMENT IN PORTLAND.

"Portland's greatest development was reached in 1910, as indicated by the following:

"Bank clearings are \$517,171,867.97, against \$391,028,890.61 in 1909.

"Real estate transfers are \$100,096,060, against \$26,485,927 in 1909.

"Building permits are \$20,604,957, against \$13,481,380 in 1909.

"Postoffice receipts are \$924,597.61, against \$778,853.73 in 1909.

"In railroad construction work and betterments, the total expenditure of the various roads in the state reached \$34,977,600, classified as follows:

"Harriman system, \$14,977,600; proposed for 1911, \$12,500,000.

"Hill system, \$14,000,000; proposed for 1911, \$14,000,000.

"Portland Railway, Light & Power Company, \$5,000,000; proposed for 1911, \$5,000,000.

"Mount Hood Railway & Power Company, \$1,000,000; proposed for 1911, \$1,000,000.

"Pacific Power & Light Company, \$1,000,000; proposed for 1911, \$1,500,000.

"Portland Gas & Coke Company, \$350,000; proposed for 1911, \$500,000."

Respectfully submitted,

L. R. ALDERMAN, *State Supt. of Public Instruction (elect), Salem.*

JONATHAN BOURNE, JR., *U. S. Senator, Senate Chamber, Washington, D. C.*

P. L. CAMPBELL, *President University of Oregon, Eugene.*

A. M. CRAWFORD, *Attorney General, Salem.*

GEO. E. CHAMBERLAIN, *U. S. Senator, Senate Chamber, Washington, D. C.*

C. H. CHAPMAN, *Ex-President University of Oregon, Portland.*

H. H. COREY, *Chief Clerk and Acting Secretary of State in the absence of Mr. Benson, Salem.*

WILL DALY, *President Oregon State Federation of Labor, Portland.*

HENRY HAHN, *President Wadhams & Co., Wholesale Grocers, Portland.*

C. S. JACKSON, *Manager Journal Publishing Co., Portland.*

THOS. B. KAY, *State Treasurer (elect), Salem.*

W. J. KERR, *President Oregon Agricultural College, Corvallis.*

WILL R. KING, *Justice of the Supreme Court, Salem.*

- A. W. LAFFERTY, *Representative in Congress (elect), Portland.*
- THOS. A. MCBRIDE, *Justice of the Supreme Court, Salem.*
- HENRY E. MCGINN, *Judge of the Circuit Court, (elect), Portland.*
- E. S. J. McALLISTER, *Attorney at Law, Portland.*
- F. A. MOORE, *Justice of the Supreme Court, Salem.*
- W. P. OLDS, *President Olds, Wortman & King Department Store, Portland.*
- GEO. M. ORTON, *Manager Multnomah Printing Co., Portland.*
- B. LEE PAGET, *Secretary Portland Trust Co., Portland.*
- H. J. PARKINSON, *Managing Editor Portland Labor Press, Portland.*
- LUTE PEASE, *Editor Pacific Monthly, Portland.*
- W. T. SLATER, *Justice of the Supreme Court, Salem.*
- BEN SELLING, *Wholesale and Retail Clothing and Men's Furnishings (President State Senate), Portland.*
- DANA SLEETH, *Editor Daily News, Portland.*
- C. E. SPENCE, *Master Oregon State Grange, Carus.*
- H. W. STONE, *General Secretary Y. M. C. A., Portland.*
- W. S. U'REN, *Attorney at Law, Oregon City.*
- OSWALD WEST, *Governor (elect), Salem.*
- C. E. S. WOOD, *Attorney at Law, Portland.*

### HON. JONATHAN BOURNE, Jr.

#### From Speech in the Senate of the United States, May 5, 1910.

Since that amendment was adopted, the people of Oregon have voted upon 23 measures submitted to them under the Initiative, 5 submitted under the Referendum, and 4 referred to the people by the legislature. Nineteen measures were submitted at one election. That the people acted intelligently is evident from the fact that in no instance has there been general dissatisfaction with the result of the vote. The measures submitted presented almost every phase of legislation, and some of them were bills of considerable length.

Results attained under direct legislation in Oregon compare so favorably with the work of a legislative assembly that an effort to repeal the Initiative and Referendum would be overwhelmingly defeated. No effort has ever been attempted.

It has been asserted that the people will not study a large number of measures, but will vote in the affirmative, regardless of the merits of measures submitted. Experience in Oregon has disproved this, for the results show that the people have exercised discriminating judgment.



They have enacted laws and have adopted constitutional amendments in which they believed and have defeated those of which they did not approve.

\* \* \* \*

The people are not only intelligent, but fair and honest. When the Initiative and Referendum was under consideration it was freely predicted by enemies of popular government that the power would be abused and that capitalists would not invest their money in a state where property would be subject to attacks of popular passion and temporary whims. Experience has exploded this argument. There has been no hasty or ill-advised legislation. The people act calmly and deliberately and with that spirit of fairness which always characterizes a body of men who earn their living and acquire their property by legitimate means. Corporations have not been held up and blackmailed by the people, as they often have been by legislators. "Pinch bills" are unknown. The people of Oregon were never before more prosperous and contented than they are today, and never before did the state offer such an inviting field for investment for capital. Not only are two transcontinental railroads building across the state, but several interurban electric lines are under construction, and rights of way for others are in demand.

I have mentioned all of these facts for the purpose of showing that the people of my state, and, I believe, the people of every other state, can be trusted to act intelligently and honestly upon any question of legislation submitted for their approval or disapproval.

**HON. W. S. U'REN.**

**Oregon City, Ore.**

The people have abolished party bosses and political machines; made the liquor question and prohibition a purely local issue; increased the legislature's respect for the constitution; greatly injured, but not yet destroyed the legislative log-rolling industry; taken municipal affairs out of the legislature; taxed some corporations that were dodging; in the matter of amendments to the constitution, greatly increased the power and responsibility of the legislature and governor; under the efficient leadership of prominent teachers of the state, the high schools are debating the nominating elections law, proportional representation, people's direct election of United States senators and other live problems in representative government; for the first time in American history the school teacher is taking his rightful place as an educator in the science of government, instead of being a victim in the game of politics; the high schools of Washington are debating whether their state should adopt the Initiative and Referendum provisions of the Oregon constitution; the voters of the state and cities are taking an interest in their

government far greater than ever before, and growing rapidly to the full measure of their power and responsibility.

The people of Oregon have learned that to get the best results they must do their own governing every day. They know that government is human, not mechanical; that the election of good men for officers is not like winding a clock, which may be safely left to do its work, needing only to be wound again at set times. The voters of Oregon realize that government is rightly named the Ship of State; that governing is like sailing a ship in this, that to steer a straight course they must hold the helm and control their officers all the time.

There is fear of the Initiative now among some of the men who helped to establish the system in Oregon, because the people could abuse the power. Officers have been known to abuse power, they say, what may the people not do? But fear is the only sign of such a danger. Capitalized vice, political grafting, legislative log-rolling and corporate tax dodging, thus far, are the only industries in Oregon to confess injury from the people's use of the Initiative and Referendum powers.

It is probable that some day our Initiative plan will be improved by allowing the legislature opportunity to offer a competing measure, both to be submitted to the people at the same election. Hon. George H. Shibley of Washington, D. C., made this suggestion last year. But as to repealing either the Initiative or the Referendum powers, there is only one opinion in Oregon.

December, 1907.

### VOTES ON INITIATIVE AND REFERENDUM MEASURES SUBMITTED IN OREGON, 1902-1910.

The following table gives the votes on measures since the introduction of direct legislation in Oregon and shows what percentage of the total vote for candidates was cast on each measure:

	Yes.	No.	Majority Approving.	Majority Rejecting.	Percentage of Total Vote for Candidate.
ELECTION 1902.					
TOTAL VOTE 92,920.					
Original initiative and referendum amendment .....	62,024	5,668	56,356	.....	73

## VOTES ON INITIATIVE AND REFERENDUM MEASURES — Continued.

	Yes.	No.	Majority Approving.	Majority Rejecting.	Percentage of Total Vote for Candidate.
ELECTION 1904.					
TOTAL VOTE 99,315.					
Local option liquor bill <sup>1</sup> .....	43,316	40,198	3,118	.....	84
Direct primary bill <sup>1</sup> .....	56,205	16,354	39,851	.....	73
ELECTION 1906.					
TOTAL VOTE 96,751.					
Woman suffrage amendment <sup>1</sup> .....	36,928	46,971	.....	10,043	87
Amendment applying initiative and referendum to acts of legislature affecting constitutional conventions and amendments <sup>1</sup> .....	47,661	18,751	28,910	.....	69
Amendment to give cities and towns exclusive power to enact and amend their charters <sup>1</sup> .....	52,567	19,942	32,625	.....	75
Amendment affecting compensation of state printer <sup>1</sup> .....	63,749	9,571	54,178	.....	76
Amendment for initiative and referendum on all local, special and municipal laws <sup>1</sup> .....	47,778	16,735	31,043	.....	67
Bill proposing change in local option law <sup>1</sup> .....	35,397	45,144	.....	9,747	83
Bill for state-ownership of a toll road <sup>1</sup> .....	31,525	44,525	.....	13,000	79
Anti-pass bill (railroad <sup>1</sup> ).....	57,281	16,779	40,502	.....	76
Bill for license on gross earnings of sleeping, refrigerator, and oil car companies <sup>1</sup> .....	69,635	6,440	63,195	.....	79
Bill for license on gross earnings of express, telegraph and telephone companies <sup>1</sup> .....	70,872	6,360	64,512	.....	80
Referendum to veto an act of legislature relative to appropriation for state institutions <sup>2</sup> .....	26,758	43,918	.....	17,160	73
ELECTION 1908.					
TOTAL VOTE 116,614.					
Amendment increasing compensation of members of the general assembly <sup>3</sup> .....	19,691	68,892	.....	49,201	76

## VOTES ON INITIATIVE AND REFERENDUM MEASURES—Continued.

	Yes.	No.	Majority Ap- proving.	Majority Reject- ing.	Percentage of Total Vote for Candidate.
Amendment relating to location of state institutions <sup>a</sup> .....	41,975	40,668	1,107	.....	71
Amendment increasing the number of judges of the supreme court and making other changes relative to the judiciary <sup>a</sup> .....	30,243	50,591	.....	20,348	69
Amendment changing time of holding general elections from June to No- vember <sup>a</sup> .....	65,728	18,500	47,136	.....	72
Bill relative to the custody and em- ployment of county prisoners <sup>a</sup> .....	60,443	30,033	30,410	.....	78
Bill providing for free transportation of public officers <sup>a</sup> .....	28,856	59,406	.....	30,550	76
Bill appropriating \$100,000 for ar- mories <sup>a</sup> .....	33,507	54,848	.....	21,341	76
Bill to increase appropriation for state university <sup>a</sup> .....	44,115	40,535	3,580	.....	72
Woman suffrage amendment <sup>a</sup> .....	36,858	58,670	.....	21,812	82
Bill prohibiting fishing for salmon or sturgeon on Sunday and at night in certain months of the year <sup>a</sup> .....	46,582	40,720	5,862	.....	75
Amendment giving power to cities and towns to regulate race tracks, pool rooms, sale of liquor, etc. <sup>a</sup> .....	39,412	52,346	.....	12,904	79
Amendment exempting property im- provements from taxation <sup>a</sup> .....	32,066	60,871	.....	28,805	80
Amendment providing for the recall, i. e., the removal of a public officer by vote of the people and the elec- tion of his successor <sup>a</sup> .....	58,381	31,002	27,379	.....	77
Bill providing for election of United States senators by vote of the people <sup>a</sup> .....	69,668	21,162	48,506	.....	78
Amendment providing for propor- tional representation <sup>a</sup> .....	48,868	34,128	14,740	.....	71
Bill limiting expenditure of money in political campaigns <sup>a</sup> .....	54,042	31,301	22,741	.....	73
Bill regulating salmon fishing <sup>a</sup> .....	56,130	30,280	25,850	.....	74
Amendment providing for choosing of jurors, etc. <sup>a</sup> .....	52,214	28,487	23,727	.....	69

## VOTES ON INITIATIVE AND REFERENDUM MEASURES—Continued.

	Yes.	No.	Majority Ap- proving.	Majority Reject- ing.	Percentage of Total Vote for Candidate.
Bill providing for the creation of the county of Hood River <sup>1</sup> .....	43,948	26,778	17,170		61
ELECTION 1910.					
TOTAL VOTE 120,248.					
Woman suffrage amendment <sup>1</sup> .....	35,270	59,065		23,795	78
Act authorizing purchase of site, con- struction and maintenance of branch insane asylum <sup>2</sup> .....	50,135	41,504	8,630		76
Act to elect delegates to state consti- tutional convention <sup>1</sup> .....	23,143	59,974		36,831	69
Amendment providing separate elec- tion districts for members of the General Assembly <sup>3</sup> .....	24,000	54,252		30,252	65
Taxation amendment permitting class- ification of property <sup>3</sup> .....	37,619	40,172		2,553	64
Amendment authorizing establishment of railroad districts and purchase and construction of railroads <sup>1</sup> .....	32,844	46,070		13,226	65
Taxation amendment authorizing uni- form rule of taxation "except on property not specifically taxed," etc. <sup>3</sup> .....	31,629	41,602		10,063	61
Act increasing judge's salary in eighth judicial district <sup>3</sup> .....	13,161	71,503		58,342	70
Bill creating county of Nesmith out of portion of Douglas county <sup>1</sup> .....	22,806	60,591		37,725	69
Bill providing permanent support, by taxation, of Oregon Normal School <sup>1</sup>	50,191	40,044	10,147		75
Bill creating county of Otis out of portions of Harney, Malheur and Grant counties <sup>1</sup> .....	17,426	62,016		44,590	66
Bill providing for annexation of por- tion of Clackamas county to Mult- nomah county <sup>1</sup> .....	16,250	69,002		52,752	71
Bill creating county of Williams out of portions of Lane and Douglas counties <sup>1</sup> .....	14,508	64,000		49,492	65
Amendment providing for county reg- ulation of county taxation and abolishing poll tax <sup>1</sup> .....	44,171	42,127	2,044		72

## VOTES ON INITIATIVE AND REFERENDUM MEASURES—Continued.

	Yes.	No.	Majority Ap- proving.	Majority Reject- ing.	Percentage of Total Vote for Candidate.
Amendment providing for city local option¹ .....	53,321	50,779	2,542	.....	86
Bill for employers' liability law¹ .....	56,258	33,943	22,315	.....	75
Bill creating county of Orchard out of portion of Umatilla county¹ .....	15,664	62,712	.....	47,048	65
Bill creating county of Clark out of portion of Grant county¹ .....	15,613	61,704	.....	46,091	64
Bill providing for permanent support, by taxation, of Eastern Oregon State Normal School¹ .....	40,898	46,201	.....	5,303	72
Bill providing for annexation of portion of Washington county to Multnomah county¹ .....	14,647	68,221	.....	54,174	68
Bill providing for permanent support, by taxation, of the Southern Oregon State Normal School¹ .....	38,473	48,655	.....	10,182	72
Amendment prohibiting manufacture and sale of intoxicating liquors¹ .....	43,540	61,221	.....	17,681	87
Bill for prohibition law¹ .....	42,651	63,564	.....	20,913	87
Bill creating board of commissioners to examine and report on employers' indemnity for injuries¹ .....	32,224	51,719	.....	19,495	69
Bill prohibiting the taking of fish from Rogue river except by hook and line¹ .....	49,712	33,397	16,315	.....	69
Bill creating county of Deschutes out of portion of Crook county¹ .....	17,592	60,486	.....	42,894	65
Bill creating new towns, counties and municipal districts by popular vote and petition¹ .....	37,129	42,327	.....	5,198	66
Amendment permitting counties to incur indebtedness beyond \$5,000 to build roads¹ .....	51,275	32,906	18,369	.....	70
Bill extending primary law so as to allow voters to express their choice for candidate for president and vice president, presidential electors and delegates to presidential conventions¹ .....	43,353	41,624	1,729	.....	71

## VOTES ON INITIATIVE AND REFERENDUM MEASURES.—Concluded.

	Yes.	No.	Majority Ap- proving.	Majority Reject- ing.	Percentage of Total Vote for Candidate.
Bill creating board of inspectors of state government and providing for bi-monthly reports <sup>1</sup> .....	29,955	52,538	.....	22,583	68
Amendment providing for modifica- tion of initiative, referendum and recall powers of the people, etc. <sup>2</sup> ....	37,031	44,366	.....	7,335	67
Amendment providing for verdict of three-fourths of jury in civil cases and separate summons for grand and trial jurors; authorizing cer- tain changes in judicial system and procedure of supreme court; fixing terms of supreme court and official tenure of all courts <sup>3</sup> .....	44,538	39,399	5,139	.....	69

<sup>1</sup>Submitted under the initiative.<sup>2</sup>Submitted under the referendum upon legislative act.<sup>3</sup>Submitted to the people by the legislature.

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## THE WISCONSIN PLAN.

**An explanation of the Initiative and Referendum amendment to the constitution of Wisconsin, from an address delivered by Governor McGovern before the City Club of Chicago, January 9, 1912.**

The Wisconsin plan for the operation of the Initiative and Referendum is unique. At the very outset it was decided to use the methods of direct legislation not as substitutes for representative government but as a means for making the government more truly representative. Hence the so-called "direct drive" idea was rejected. Under the plan agreed upon, every bill before it may be submitted to the people upon Initiative petition must first be introduced in the legislature and advanced as far as it will go. The advantage of this plan is three-fold. As the legislature convenes only once in two years, a reasonable limit is thus imposed on the submission of bills proposed by the Initiative petition. In the next place, the legislature will thus be given the first opportunity to pass or reject bills and the voters will be called upon to act only after the legislature has failed to perform its duty. The third and greatest advantage is that in this way bills will be perfected in form before they are submitted to the people. After they have been introduced in the legislature, all such bills will be exposed to the limelight of public scrutiny. The attention of every person of the state interested in the subjects to which they relate will be focused upon them. Public hearings will be had, they will be debated in the committees, amendments will be submitted and all the legislative process developed through centuries of experience will be employed to beat them into acceptable form. As is well known, important bills are now frequently drafted and redrafted, scores and scores of times before being put upon their final passage. So it will be here. Properly championed and considered these bills will go down when defeated because of the principles of public policy they embody and not by reason of any minor defect. If they be then taken from the legislature on Initiative petitions only, these questions of principle will be submitted to the people for their approval or rejection. Thus unlike Oregon where thirty-two separate measures were submitted for direct vote at a single election, the plan here proposed will confine public approval or condemnation to important questions concerning which there are differences of view in the legislature and among the people of the state.

In this way the functions of the legislature will be preserved in all their original vigor, yet the people will be given ultimate control — the last word — concerning every legislative proposal. By means of the Referendum the people may defeat any law they do not like. By means

of the Initiative they may enact any law they want. It is the method that combines all of the advantages of deliberative assemblies with the requirement that the ultimate sovereignty of the people shall be maintained.











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